

WILLIAM PENN

AS

SOCIAL PHILOSOPHER





# WILLIAM PENN AS SOCIAL PHILOSOPHER

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EDWARD CORBYN OBERT BEATTY

*With a Foreword by*

MARCUS W. JERNEGAN



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MANUFACTURED IN THE UNITED STATES OF AMERICA

*To*

*Anna Wild Beatty*

*Sarah Margaret Beatty*

*And*

*Katherine Hitt Beatty*



## FOREWORD

AMERICAN historiography has concerned itself largely with the narration of *events* rather than of *ideas*: the deeds of groups and leaders, the evolution of institutions, such as political parties, agencies of trade and commerce, churches, and schools. Biographers have generally followed these patterns—the deeds of their subject and his participation in the stream of events.

Comparatively few studies have been made of the ideas of leaders, their political, economic and social theories, or that complex of their thought on all aspects of life; particularly the nature and purpose of the state, the individual in his relation to the conflict between authority and liberty, the ideal distribution of wealth and income, the acceptance or rejection of contemporary habits, customs, and beliefs. From this standpoint most of the biographies of important American leaders are unsatisfactory.

While there are numerous studies of Penn, this is the first extensive analysis of the great Quaker leader which clearly and adequately explains his philosophy of life, his political and social theories, his attitude towards war and peace, his religious and racial views, his notions respecting the distribution of wealth and income and his educational theories and plans for humanitarian reforms—in general, Penn's social philosophy.

This volume well illustrates the transfer of English and European ideas to America, the modifications made necessary by the new environment, and the rise of the American way of life. Doctor Beatty has made the most thorough and important study of William Penn yet written from this standpoint.

MARCUS W. JERNEGAN

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JUNE 6, 1939



## *PREFACE*

**T**HIS BOOK is a study of the ideas of William Penn. It is not a biography, though biographical details are frequently given to explain or illustrate the man's philosophy. It is not a history of the period, though discussions of political and social phenomena are occasionally included to illuminate the motives and attitudes of one who was in his generation so prominent a public figure. Research for this study has been limited to Penn's theories concerning the multiple relationships of individuals in society. His religious beliefs have been given no place except as they throw light upon his ideas of man in purely mundane concerns. No attempt has been made here to offer a psychological analysis of his mental and emotional reactions. This investigation is purely an excursion into the history of social philosophy.

For the sake of convenience, Penn's social ideas have been studied from three points of view. The first presents him as a political theorist and statesman. His ideas of the nature and function of the state were conceived in an era vitally important to English and American constitutional history, an era absorbed in decisive controversy and rich in the formulation of political theory. Those ideas must have determined to no small degree his social philosophy. Penn's political theories, set forth in an age of expansion by the founder of one of the new commonwealths in a new world, have in themselves an abiding interest. Shaped while world empires were being built and commercial imperialism controlled the policies of governments, the views of this intimate of English kings assume increased importance. Because they were suggested to a troubled Europe in an age of almost constant international armed strife, the Quaker pacifist's theories will have significance for seekers after peace in another era of wars and rumors of war. Much of Penn's enormous energy was devoted to

the struggle for religious toleration. The effect of this objective upon his philosophy must be estimated. A second aspect is that of the economic man. As the head of a princely domain, Penn might have been expected to develop theories appropriate to his station. He must be studied as a man endowed with power and wealth, a defender of the class and social order he represented. His views on the current theories and ideals in the field of economics, the self-sufficient state, mercantilism, and paternalism require examination and description. The third approach is that suggested by Penn's character as a social idealist and humanitarian. A balanced view of his philosophy must include an analysis of his ideas about the family and the education of the young. It requires a study of his attitude toward the alien groups in the midst of which he set up his "holy experiment." It must afford some definition of his views on such subjects as charity, crime and punishment, luxury, temperance, racial equality, the current superstition of witchcraft, and other matters relating to man as a social animal. These three lines of approach, obviously, are not always clearly differentiated; there is necessarily some apparent repetition in the treatment.

The author is indebted to the Historical Society of Pennsylvania for many courtesies extended by the staff of their library in Philadelphia and, particularly, for the kind permission to print numerous excerpts from the extensive collection of Penn manuscripts in their possession. To the staff of the library of the American Philosophical Society, Philadelphia; of the Charles Roberts Collection at Haverford College; of the Friends' Historical Library at Swarthmore College; of the New York City Public Library; of the University of Chicago Libraries and of the Newberry Library, Chicago; and of the Henry E. Huntington Library and Art Gallery, San Marino, California, the author likewise expresses his appreciation for valuable assistance.

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for A. S. Bolles, *Pennsylvania: Province and State, a History from 1609 to 1790*; and Yale University Press, for Charles M. Andrews, *The Colonial Period of American History*, and for B. W. Bond, Jr., *The Quit-Rent System in the American Colonies*. The author thanks Dr. Harry Elmer Barnes for permission to quote from his book, *The Evolution of Penology in Pennsylvania* (Indianapolis, Bobbs-Merrill [1927]); Mrs. John Spencer Bassett for permission to quote from John Spencer Bassett (editor), *The Writings of Colonel William Byrd of Westover in Virginia, Esqr.* (New York, Doubleday, Page and Company, 1901); and Professor William Isaac Hull, for permission to quote from his books, *William Penn and the Dutch Quaker Migration to Pennsylvania* (Philadelphia, Patterson & White, 1935), and *William Penn: A Topical Biography* (London, New York, Toronto, Oxford University Press, 1937). For the quotation at the opening of the Epilogue, page 302, from a letter of William Penn to Sir John Rodes, the author is indebted to Longmans, Green & Co., Publishers, who kindly gave permission to quote the passage from their book, Sophy Félicité (De Rodes) Locker-Lampson (editor), *A Quaker Post-Bag: Letters to Sir John Rodes of Barlbrough Hall, in the County of Derby, Baronet, and to John Gratton of Monyash 1693-1742* (London, 1910).

This work was undertaken at the suggestion of Professor Marcus W. Jernegan of the Department of History of the University of Chicago. It has been carried on under his direction and has received throughout its course the benefit of his generous interest, stimulating guidance, and patient, discerning criticism. To him, kindly friend and inspiring teacher, the author expresses abiding gratitude.

The opportunity to carry on much of the most important research for the study was provided by the late Henry Milton Wolf of Chicago, generous donor of an annual graduate fellowship to the Department of History of the University of Chicago. Dr. Albert Cook Myers of Moylan, Pennsylvania, extended many courtesies during the writer's visit to Philadelphia and environs and offered much valuable advice and many useful suggestions. Mr. William Bridgwater, of the Editorial Department of the Columbia University Press, patiently read and criticized the en-

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No one named above is in any sense answerable for the defects which will be noted in this study. Responsibility for all errors rests solely upon the author.

All manuscript sources cited in this book are to be found in the Division of Manuscripts of the library of the Historical Society of Pennsylvania, Philadelphia, unless otherwise indicated. Spelling and punctuation in direct quotations and some titles of books printed in the seventeenth and eighteenth centuries have been modernized to accord with present usage. Since full titles and facts of publication are given in the bibliography, some titles are abbreviated in the notes. A list of abbreviations used in the notes appears as an introduction to the bibliography.

E.C.O.B.

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## Chapter I

### THE BACKGROUND OF A PHILOSOPHY

*The great business of man's life is to answer the end for which he lives; and that is to glorify God and save his own soul: this is the decree of Heaven, as old as the world*

—WILLIAM PENN

WILLIAM PENN was born on October 14, 1644.<sup>1</sup> He began life in an era of profound historical significance. Four years after his birth the negotiators at Osnabrück and Münster brought to an end the last and greatest European war of religion. Sectarian lines on the Continent had hardened and the boundaries between Catholic South and Protestant North now seemed relatively stable. Ravaged by a quarter of a century of military campaigning, the Germanies were emerging in economic ruin, social decay, and political disintegration, doomed for two hundred years to be the prey of the dynastic rivalries of Habsburg, Bourbon, Bonaparte, and Hohenzollern. The military defeat at Rocroi had destroyed the legendary invincibility of the Spanish infantry and symbolized the political and economic decline of Spain. With the death of Richelieu and the accession to power of Mazarin, France was passing into the era of domestic disorder which preceded the great days of the Bourbon monarchy. When Penn was born, Grotius and Descartes were drawing toward the close of their careers; Pufendorf and Spinoza were boys of twelve. In the British Isles John Milton had just written his *Areopagitica*, and Roger Williams, returned to the land of his fathers, had completed *The Bloudy Tenent of Persecution*. Thomas Hobbes and James Harrington were yet to see printed their greatest works, and John Locke had still to reach his fourteenth birthday. In 1643 the Solemn League and Covenant had bound Scotch Presbyterian

<sup>1</sup> Hull, *William Penn: A Topical Biography*, p. 65. Where there is important difference of opinion among the biographers of Penn upon a point material to this study, that fact will be indicated in a note. I have usually followed Dr. Hull, the most recent biographer.

and English Independent in a military alliance against Stuart absolutism and Anglican ecclesiasticism. On July 2, 1644, Marston Moor had been fought. Prophets of new heavens and portents of a new earth were at hand.

The Penns appear to have been yeomen risen to the status of country gentry, who at one time had had considerable landed property. Later generations fell upon evil days, and the Quaker's grandfather, Giles, took to the sea. The son of Giles, William, followed his father's profession, entered the royal navy, and in his twenties had already won respectable rank in the king's service. He supported the cause of Parliament in the strife with Charles I, and at one time during the war the former officer in the royal navy commanded the Parliamentary squadron sent in pursuit of Prince Rupert. From the second Stuart and his son (after the Restoration), as well as from Oliver Cromwell, Admiral Penn received estates in Ireland. Some of these lands were later forfeited to the government as punishment or exchanged for other grants as rewards to the naval officer. Penn and Venables led an unsuccessful expedition to conquer Hispaniola for the Protector. The seizure of Jamaica for England did not offset their failure, and on their return they were imprisoned for a time by Cromwell. Later Penn espoused the Stuart cause and took a leading part in restoring the exiled Prince of Wales to the throne of his father. As a reward Charles II knighted the sailor.<sup>2</sup>

Much less is known with regard to Penn's maternal ancestry. Biographers agree that his mother was the widow of Nicasius van der Scure, Vanderscure, or Van der Schuren,<sup>3</sup> a Dutchman, and the daughter of one John Jasper, said to have been a merchant of Rotterdam. Samuel Pepys, who was a neighbor and on terms of some familiarity with the Penns during the young manhood of William the Quaker, called Mrs. Penn a "Dutchwoman."<sup>4</sup>

<sup>2</sup> For biographies of Sir William Penn see such works as Granville Penn, *Memorials of the Professional Life and Times of Sir William Penn, Knight*; Webb, *The Penns & Peningtons of the Seventeenth Century*; Jenkins, *The Family of William Penn*; Conner, *Sir William Penn, Knight, Admiral, and General-at-Sea*; Pound, *The Penns of Pennsylvania and England*.

<sup>3</sup> Hull, *Eight First Biographies of William Penn*, p. 123. Some biographers give the Christian name of Mrs. Penn's first husband as Nicholas instead of Nicasius.

<sup>4</sup> Pepys, *Diary and Correspondence*, III, 32-33 (entry for Aug. 19, 1664). Admiral Penn figures largely, though not usually admirably, in Pepys's diary.

Some of Penn's biographers have followed the diarist in asserting that William's mother was of Dutch origin; others have said that she was Anglo-Irish. Albert Cook Myers, the collector of the writings of William Penn, declared in 1908 that no record had been discovered of a John Jasper in Rotterdam "for the first half of the seventeenth century." There is evidence, however, that a John Jasper and his family resided in County Clare, Ireland, before 1641 and that by that year a daughter, Margaret, had been married to Nicasius Vanderscure. Dr. Myers stated in 1934 that Penn had "a Dutch mother"; and this view is held by Penn's most recent biographer, Professor William I. Hull.<sup>5</sup> The lady, under the style of Margaret Van der Schuren, widow, was married on June 6, 1643, to Captain William Penn.<sup>6</sup>

The Admiral, desirous that his son play an honorable part in the world, provided quite unusual schooling for him. From the Penn country home at Wanstead, in Essex, the boy was sent to the grammar school at Chigwell, where both Greek and Latin—as well as writing and arithmetic—were taught. It was at Chigwell that the boy is reputed to have experienced, in his twelfth year, the religious emotion which was to influence so deeply his subsequent career. Soon afterward he was withdrawn from this school, sent to a private institution on Tower Hill in London near the city home of the family, and provided by his father with a private instructor.

Young Penn entered Oxford in October, 1660, a few days before he was sixteen, as "a gentleman commoner at Christchurch." John Locke and Christopher Wren were at the University at this time, but whether Penn then knew or associated with either or both of them is not known. It is recorded that in later years he was acquainted with Locke and that he once sought to

<sup>5</sup> Hull, *William Penn: A Topical Biography*, p. 26. See Myers, "Was William Penn a 'Half-Dutchman?'" *Journal of the Friends' Historical Society*, V (1908), 118. The same author published an article in almost the same words in *The Pennsylvania Magazine of History and Biography*, XXXII (1908), 107-108. See also the report of Dr. Myers's radio address of Oct. 24, 1934, in "Notes and Queries," *The Pennsylvania Magazine of History and Biography*, LIX (1935), 91-93. Compare Clarkson, *Memoirs of the Private and Public Life of William Penn*, I, 5; Janney, *The Life of William Penn*, p. 2; Graham, *William Penn*, pp. 14, 15; Brailsford, *The Making of William Penn*, pp. 11-12; Dobree, *William Penn*, p. 2; Vulliamy, *William Penn*, p. 28. The latest account is Myers, *William Penn's Early Life*, pp. 20-21.

<sup>6</sup> Hist. MSS Com., 13th Report, App., Part II, Portland MSS, II, 84.

obtain a pardon for him. Penn's biographers make numerous references to his career at Oxford, but their remarks are too general and too vague to yield much satisfactory information as to what he actually did there. Penn himself made little enlightening comment on his life at Oxford, though later he referred to the University in most scathing terms.<sup>7</sup> While in residence there, he may have heard the Quaker preacher, Thomas Loe, who at Cork in 1667 was to persuade Penn finally to accept the doctrines of the Friends. Whether as a result of this man's teaching or of Puritanism or Presbyterianism acquired elsewhere, he was involved in a rebellion against enforced attendance at common prayer. He may have participated in a riot in which some members of the University garbed in the surplices then recently prescribed by the authorities were roughly handled.<sup>8</sup> At any rate, he was expelled or suspended from the University and returned home on March 16, 1662.

During the greater part of 1662 and 1663 William Penn was in France, at Paris and Saumur, sent thither by his father to complete his education and, biographers think, to correct his pietistic tendencies. He came under the influence at Saumur of Moise Amyraut, the learned Calvinist. He read there the early Christian writers, developed his knowledge of theology, and perfected his command of French. Continuing the "Grand Tour," he made a journey to Italy early in 1664 but had just reached Turin when he was recalled to manage his father's affairs while Sir William was preoccupied with naval preparations for the Dutch war.

Penn enrolled on February 7, 1665, for a year of study in the law at Lincoln's Inn. This work was interrupted the following spring by about a month of naval service with his father. The young man, apparently, was not exposed to the more serious dangers of actual battle with the Dutch. Likewise he escaped the

<sup>7</sup> "Truth Exalted," *A Collection of the Works of William Penn* (1726), I, 243. This collection will be cited hereafter as *Works*.

<sup>8</sup> "The Convincement of William Penn," *Jour. of the Friends' Hist. Soc.*, XXXII (1935), 23. This article is the printed copy of the Huntley MS of High Wycombe used by Webb, *op. cit.*, pp. 173-180. This document states that Penn was at Oxford until "he was expelled for writing a book the priests did not like. . . ." Hull, *William Penn: A Topical Biography*, p. 77, to whom I am indebted for the reference, thinks it unlikely that Penn wrote a book or pamphlet at that time for which he was dismissed. See also Myers, *William Penn's Early Life*, p. 27.

far graver menace of the "Great Plague," which raged in London during the summer following the victory of Lowestoft. The time Penn devoted to the study of law was well spent. His legal vocabulary—later so useful in pleading his own case before hostile magistrates, in contending for such historic rights of Englishmen as that of trial by jury and the security of property from arbitrary seizure, in drafting constitutions for two colonies—must have been the result of his studies in English law. Penn's earlier protests against religious persecution are rich with citations from Bracton, Fortescue, and Coke. Throughout a contentious life he was always ready with legal and historical precedent.

Early in 1666 Admiral Penn sent his son to his Irish estate at Shangarry.<sup>9</sup> The young man's duties there were not only to develop the property but to manage a suit at law involving a disputed title. William Penn spent more than a year on this first visit in charge of his father's lands and succeeded in obtaining legal title to the property. He returned to Ireland later during the Admiral's lifetime not only to supervise the estates of the family but, now as a resolute Quaker, to uphold the cause of the persecuted Irish Friends. He visited Ireland repeatedly in subsequent years, and the Irish properties were a valuable source of income to him in the closing decades of his life.<sup>10</sup> Penn learned in Ireland the management of country estates, and he learned to appreciate and to share in a measure the point of view of the country gentleman.

Penn's acceptance of the doctrines of George Fox in Ireland during his first visit there was a decisive step in his life. By September, 1667, he had been committed to jail for attending a Quaker meeting. He avowed himself an adherent of the despised sect soon after that imprisonment, the first of a series which he was to suffer. His disappointed father drove him from home, but after repeated reconciliation and renewed estrangement the Admiral seems on his deathbed to have accepted his son's conversion to Quakerism as irrevocable. In 1668, the year following his acceptance of the new faith, William Penn wrote and had pub-

<sup>9</sup> Sir William Penn to the Marquis of Ormonde, Feb. 8, 1666, *Hist. MSS Com., 6th Report*, Part I, Report and Appendix, *Ormonde MSS*, p. 726.

<sup>10</sup> Hull, *William Penn: A Topical Biography*, pp. 79, 88-105.

lished his first book, known by the abbreviated title of *Truth Exalted*,<sup>11</sup> in which he attacked "all those religions, faiths, and worships that have been formed and followed in the darkness of apostacy," including Roman Catholicism, Anglicanism, and the ritualism of other Protestant sects. From this time on Penn wrote voluminously, until by the close of his literary life in 1712 he had written one hundred and fifty-seven published books, treatises, and prefaces, introductions, or other articles.<sup>12</sup> Most of these writings were devoted to the exposition or defense of the doctrines of the Friends, to religious controversy, and to the good life.

The new faith animating William Penn was essentially an attempt to return to the ancient Christianity.<sup>13</sup> George Fox's *Journal* contains many arguments for greater simplicity in religion and for the usages of the primitive church as opposed to the doctrine of priestly mediation between God and man. In his essay on "The Basis of Quaker Morality" Isaac Sharpless summarizes the Quaker doctrines under three main principles: the supremacy of the individual conscience, the belief in a moral order as opposed to utilitarianism, and the importance of faithfulness in small details.<sup>14</sup> These three principles are revealed repeatedly in the writings of William Penn.

The extraordinary relationship existing between him and the Stuart monarchs, Charles II and, particularly, James II, must also have contributed to the development of his social philosophy. Inheriting from his father the friendship of the royal brothers, he became an even more trusted confidant and servant of James II than his father had been of Charles II. Penn's biographers record from contemporary accounts that the Founder of Pennsylvania was for years an influential figure at court. Unfriendly historians from Burnet to Macaulay and others have presented the Quaker as a confidential, almost sycophantic, agent of James and have even cast upon him suspicion of plotting to restore his royal patron to the English throne after the Revo-

<sup>11</sup> *Works*, I, 241-247. See Myers, *William Penn's Early Life*, p. 40.

<sup>12</sup> Spence, *William Penn: A Bibliography*, p. 3, quoting Myers, *Proposed Plan for the Publication of the Complete Works of William Penn* (1910), pp. 1-2.

<sup>13</sup> Jones, *The Faith and Practice of the Quakers*, p. 36.

<sup>14</sup> Sharpless, *Quakerism and Politics*, pp. 202-220.

lution of 1688-1689. There is ample evidence to show that Penn was a figure of consequence, on terms of some intimacy with the great and powerful at Whitehall during the reign of James II.<sup>15</sup> In the time of William III his influence ebbed at the court, but his standing was to a large extent restored after the accession of Anne. Penn used his position to serve as patron for a large clientele. The effects of these experiences near the seat of power upon his philosophy are difficult to estimate with precision; but they may account in part, with advancing age and disillusionment, for the increasing conservatism of his views as the final years approached.

The influence of the political writings of such men as John Milton, James Harrington, Algernon Sidney, and John Locke upon Penn is not easily determined. Penn's original scheme for the government of Pennsylvania suggests strongly that he was acquainted with Harrington's theories.<sup>16</sup> He supported Sidney in two campaigns for election to the House of Commons and took counsel with him in the preparation of the First Frame of Government for Pennsylvania. Sidney's biographer asserts that his

<sup>15</sup> The complete story of the relations between James II and William Penn has not yet been made clear. For serious charges against Penn's character, linking him closely and even treasonably with the Jacobite party in England during and after the Glorious Revolution, see the strongly partisan Macaulay, *The History of England from the Accession of James the Second*, II, 94-97, 257-258, 266, Appendix; III, 78, 97, 169-171, Appendix, V, 389-390, 402-403, 538-539; VI, 35-36, 41-44. For an example of the sort of evidence which has raised doubts in some minds as to the integrity of Penn's conduct at the time of the overthrow of James II, see the so-called "Information of John Lunt, gentleman," said to have been sworn to by John Lunt on June 27, 1694, in Hist. MSS Com., *14th Report*, App., Part IV, *Kenyon MSS*, p. 292, note 1, and p. 294. Dixon, *A History of William Penn*, pp. vii-viii, reports in a statement published posthumously that Lord Macaulay, moved perhaps by the vigorous replies to his charges against the Quaker, changed his mind in later years about some of his earlier allegations. For answers to Macaulay, see Dixon, *William Penn: An Historical Biography*, pp. 338-353; *ibid.* (later edition, London, 1856), pp. xx-xxii, xxiv-xxix; Forster, *William Penn and Thomas B. Macaulay*; Paget, *An Inquiry into the Evidence Relating to the Charges Brought by Lord Macaulay against William Penn*; Paget, *The New "Examen,"* pp. 147-222; Tyson, "An Examination of the Various Charges Brought by Historians against William Penn, Both as a Man and as a Political Governor," Hist. Soc. of Pa., *Memoirs*, Vol. II, Part II, pp. 127-157; Descours, "William Penn's Vindication," *The Positivist Review*, XXVI (1918), 229-232. Graham, *op. cit.*, pp. 310-313, has a review of the various refutations of Macaulay. See also Hull, *William Penn and the Dutch Quaker Migration to Pennsylvania*, pp. 302-306. Still more recent is Hull, *William Penn: A Topical Biography*, pp. 241-278, 321.

<sup>16</sup> Russell-Smith, *Harrington and His Oceana*, pp. 156, 167, 170-171, 175-182. Compare Gooch, *English Democratic Ideas in the Seventeenth Century*, pp. 305-307.

subject was the author of the "remodelled draft" of this famous document and assumes, in effect, that the constitution was chiefly, if not entirely, the work of Sidney: it was an analysis, he wrote, of the latter's "political opinions, and of the system of administration he considered most calculated for the promotion of liberty and good government."<sup>17</sup> Under date of October 13, 1681, however, Penn wrote Sidney a letter which indicates clearly that in some particulars he had not followed the latter's advice about the Frame but gives no information as to the extent to which he had made use of the other's ideas.<sup>18</sup> No evidence known to me proves any certain connection between Penn's ideas and those of either Milton or Locke. The Quaker's efforts to secure a pardon for Locke, like his participation in Sidney's campaigns for Parliament, may indicate that in some respects they were kindred spirits but do not prove that he derived his philosophy from either. Benjamin Furly, the "international Quaker," offered Penn some advice with reference to the First Frame and wrote to the Founder expressing his disapproval of the draft which the latter had substituted for an earlier scheme favored by Furly. His disapproval seems to have been based on the conviction that pressure, perhaps from a "few corrupt and guilty courtiers," had forced Penn to recede from the position of advanced democracy which, Furly thought, characterized the supplanted draft.<sup>19</sup> Penn was willing to take advice, but he was also willing to reject it.

Many of William Penn's writings reveal great erudition. His theological tracts are full of citations from the Scriptures and from the patristic writings. He frequently drew upon the pagan philosophers and the historians of Greece and Rome and took arguments from foreign as well as from English history. In his tract *A Persuasive to Moderation to Church-Dissenters in Prudence and Conscience* <sup>20</sup> he supported his contentions by reference to the annals

<sup>17</sup> Ewald, *The Life and Times of the Hon. Algernon Sydney*, II, 198 ff. Gooch, *op. cit.*, p. 283, says: "The respective shares of the two authors [Penn and Sidney] in the Constitution of Pennsylvania may therefore be presumed to have been about equal." Gooch cites Ewald, but gives no other authority.

<sup>18</sup> "Inedited Letters of William Penn," *Hist. Soc. of Pa., Memoirs*, Vol. III, Part I, pp. 285-286.

<sup>19</sup> "B. F. Abridgement out of Holland and Germany," Penn MSS, Ford vs. Penn; Hull, *William Penn and the Dutch Quaker Migration to Pennsylvania*, pp. 342-345; Hull, *Benjamin Furly (1636-1714) and Quakerism in Rotterdam*.

<sup>20</sup> *Works*, II, 727-749



of the Jewish, Roman, Dutch, Polish, French, and German peoples; he pointed with approval to the political organization of Venice, Genoa, Lucca, and the Swiss cantons; he invoked the authority of Quadratus, Aristides, Justin Martyr, Melito, Tertullian, Hilary, Atticus, Proclus, Socrates the historian, Lactantius, John Chrysostom, Jerome, Constantius (father of Constantine the Great), Constantine, Eusebius, Pamphilus, King Stephen of Poland, the King of Bohemia, and the English monarchs, James I and Charles I. One of his doctrinal works bears the title *A Treatise of Oaths, Containing Several Weighty Reasons Why the People Called Quakers Refuse to Swear, and Those Confirmed by Numerous Testimonies of Gentiles, Jews and Christians, Both Fathers, Doctors and Martyrs*.<sup>21</sup> True to the description, this heavy treatise is full of arguments against swearing offered in a formidable array of citations from more than one hundred and fifteen separate authorities, as diverse as Plato, Polybius, Epictetus, Plutarch, Marcus Aurelius, Augustine, Jerome, Chrysostom, Albertus Magnus, Thomas Aquinas, Maimonides, Chaucer, Wycliffe, John Huss, Erasmus, Peter Martyr, Grotius, and Bishop Ussher.

Writing in 1693 to a young Quaker friend,<sup>22</sup> Penn listed the books "most valuable for a moderate library." It would seem fair to suppose that, even if he had not read all of the books in the lengthy list sent his correspondent, he included those which seemed to him the most useful and which, therefore, probably influenced his thinking. Among the works and authors recommended were the Bible, with a number of writings on theological or doctrinal subjects, such as Augustine's *City of God*, Eusebius, Thomas à Kempis, "Friends' Books"; Thucydides, Tacitus, Seneca, Plutarch, Marcus Aurelius; Machiavelli, Sir Thomas More, Sir Francis Bacon, Grotius, and Sir Edward Coke. Among the interesting omissions are the names of Bodin, Harvey, Hobbes, Descartes, Spinoza, Harrington, Locke, Pufendorf, and Newton. Algeron Sidney's name was not in the list of Penn's recommended authors, but his *Discourses Concerning Government* was not published until 1698. If it be assumed that Penn's list of valuable

<sup>21</sup> *Ibid.*, I, 612-672.

<sup>22</sup> Penn to Sir John Rodes, October, 1693, in *A Quaker Post-Bag*, edited by Mrs. Locker-Lampson, pp. 3-7.

books was deliberately prepared and that he knew the works of some or all of these omitted authors, one must conclude that for the general reader he placed a lower value upon their contributions than upon those of the writers whose names he listed. One may ask, indeed, why Harrington was omitted when Machiavelli and Sir Thomas More were included. Similar questions might be raised, of course, as to other names.

Penn's political writings evince abundant information concerning legal and constitutional history. In *England's Present Interest Considered*<sup>23</sup> he drew references from Caesar, Tacitus, Matthew Paris, Bede, the Chronicle of Lichfield, Magna Charta, the laws of such monarchs as Alfred, William I, Stephen, and Edward I, the writings of Coke, Grotius, and others. In *The Excellent Privilege of Liberty and Property* Penn reprinted the Great Charter with a comment thereupon, the royal confirmation of the "Charter of the Liberties of England and of the Forest," the sentence of the clergy against the breakers of those articles, the curse of the bishops against the violators of the Great Charter, the statute of Edward I known as *De tallagio non concedendo* and comment, as well as the Charter of 1681 granting Penn his province and the Frame of Government of 1683 for Pennsylvania.

In spite of his important role in the political life of his own country and her American colonies, William Penn was primarily a religionist rather than a philosopher or a politician. Much the greater part of his published writings deals primarily with theology, religion, and morality. Some are expositions of the Quaker "way of life." Of them the most widely known and most important is *No Cross, No Crown*.<sup>24</sup> Others bear such titles as *Tender Counsel and Advice; A Discourse of the General Rule of Faith and Practice, and Judge of Controversy; A Brief Account of the Rise and Progress of the People Called Quakers; A Key, Opening the Way to Every Capacity, How to Distinguish the Religion Professed by the People Called Quakers, from the Perversions and Misrepresentations of Their Adversaries; Primitive Christianity Revived; and A Defence of a Paper, Entitled Gospel-Truths, against the Exceptions of the Bishop of Cork's Testimony*.<sup>25</sup> A

<sup>23</sup> *Works*, I, 672-705.

<sup>24</sup> *Ibid.*, pp. 272-439.

<sup>25</sup> *Ibid.*, pp. 198-209, 591-608, 858-892; II, 778-791, 853-875, 884-916.

second group of writings concerned with religion, of lesser importance and interest today, is polemical. Judged by modern standards, these tracts seem violent in tone and frequently even offensive to good taste. A third group is made up of literary works dealing primarily with maxims of conduct rather than with theological doctrines or controversy. The best example is *Some Fruits of Solitude in Reflections and Maxims*.<sup>26</sup> For this book Penn adopted a style reminiscent of the language in the Book of Proverbs or of the *Encheiridion* of Epictetus. In many series of numbered comments he aphoristically expressed his views on such subjects as "Education of Children," "Servant," "Government," "The Conformist," and others.

Penn was thoroughly acquainted with the Bible. He frequently enriched his writings with Scriptural quotations and usually added to the title page of his tract a series of Biblical verses. In *The Sandy Foundation Shaken*,<sup>27</sup> for example, after announcing himself to be "a builder on that foundation which cannot be moved," he cited three passages from Holy Writ: I Cor. 8:6; Micah 7:18; and Exod. 23:7. Quotations appear on the title page of the *Discourse of the General Rule of Faith and Practice* from Gal. 6:16; I Cor. 2:10, 11, and 15; and I John 2:20. Two citations from Proverbs introduce *Innocency with Her Open Face*.<sup>28</sup> Penn, like other writers of his day, sometimes varied this method of presenting texts for his sermons by adding a statement of his own to the title page, in which undeniable reference to Biblical passages is made. Thus, after the title of *Truth Exalted* he wrote, in apposition to his own name as author, "whom Divine love constrains in an holy contempt, to trample on Egypt's glory, not fearing the King's wrath, having beheld the majesty of Him who is invisible."

The supreme written source of William Penn's ideas was the Bible. He expressly recommended it, and particularly the Old Testament, to young Sir John Rodes for the study of politics. His own political writings make frequent appeals to Scriptural

<sup>26</sup> *Ibid.*, I, 818-858. These maxims have been reprinted many times. References to them made hereafter in this study are cited from Penn, *Fruits of Solitude: Reflections and Maxims Relating to the Conduct of Human Life* (11th edition, reprinted; Chicago, 1906).

<sup>27</sup> *Works*, I, 248-266.

<sup>28</sup> *Ibid.*, pp. 266-271.

authority. His policies as a statesman and as a colonial administrator were often based on the patriarchal authoritarianism of the Old Testament or on the Christian humanitarianism of the New.

Penn's literary style is capable of much variety. He is said, on at least two occasions, to have written poetry. The earlier poem was a Latin elegy on the death of the Duke of Gloucester, younger brother of Charles II, composed by Penn as a student in his first year at Oxford.<sup>29</sup> The second was an English stanza to a little girl, translated by Willem Sewel into Dutch, printed by Dr. Hull in his recent study of the biographies of Penn.<sup>30</sup> Penn usually eschewed entirely the poetic manner, but nevertheless his style exhibits remarkable range in character. In some of his theological arguments he is verbose and difficult to follow; in his maxims he frequently approaches an admirable terseness. At times his language is serene and dignified; at others his tone is almost strident in its violence. By turns he is humble and submissive, assertive and belligerent. His reasoning is almost always a priori. He frequently uses the syllogistic method. Sometimes his remarks upon Scriptural authority have a distinctly modern note. In his *Discourse of the General Rule of Faith and Practice*, for example, his position is not out of harmony with that set forth in the Biblical criticism of some of the more liberal writers of the present day. At other times Penn is a fundamentalist. In some of his controversial writings his reasoning is well-knit and logical, but in others he rationalizes his prejudices like the most untrained partisan. He is tolerant on some occasions far beyond his age; he is quite as dogmatic at other times as any of those whom he denounces.

William Penn's political and economic ideas were affected by factors which were themselves the results of his peculiar environment. His early instruments of government for New Jersey and for Pennsylvania, drawn up when he was contending for the recognition of the rights of an oppressed people to religious toleration, exhibited a marked degree of political liberality. This struggle for the right of his sect to freedom from persecution on account of religion gave rise, in large measure, to such democratic tenden-

<sup>29</sup> Hull, *William Penn: A Topical Biography*, p. 74 and note 164, quoting Clarkson, *op. cit.*, I, 7-8.

<sup>30</sup> Hull, *Eight First Biographies of William Penn*, p. 34.

cies as may be attributed to Penn.<sup>81</sup> When he found himself in the position of a landed proprietor, in some respects a feudal lord, and the grantor or master of great estates, he developed the characteristic conservatism of vested interests. At the same time, to the antagonisms generated by conflicting needs and purposes of proprietor and colonists were added the pressures that came from the former's relationship to the Crown and to the officers of the Crown in America. When, in recalling his early legal training, he found his rights or the rights of his sect denied, he struck for the liberty he claimed under the law. When, in his province, he found an "unruly" people bent upon what they termed "liberty" with no great appreciation for his vested rights, he stigmatized their activities as "licentious," and invoked the law in his own defense or in that of constituted authority. On one occasion he even wished to suspend arbitrarily what the colonists considered the provincial constitution.

During the early years of the eighteenth century Penn, disillusioned with his "holy experiment," wished to abandon it and salvage what he could of his investment, saving to the Quakers, however, their rights so hardly won. His disillusionment, combined with other bitter disappointments and cruel financial difficulties, induced in him such a state of mind that in the final decade of his active life philosophy gave way to futile and pathetic musings, perhaps prophetic of his approaching collapse. Yet until the disabling stroke of 1712 he never abandoned the old ideal of religious toleration; when he lost his faculties, he was still hoping one day to retire to Pennsylvania, where he thought he had helped to create a kindlier world.

<sup>81</sup> Hull, *William Penn: A Topical Biography*, pp. 318, 328, attributes Penn's democracy and his labors for reform to Quakerism. Compare Tawney, *Religion and the Rise of Capitalism*, pp. 272-273.

## Chapter II

### BUILDER OF A NEW UTOPIA

*But next to the power of necessity (which is a solicitor that will take no denial), this induced me to a compliance, that we have (with reverence to God and good conscience to men) to the best of our skill, contrived and composed the frame and laws of this government, to the great end of all government, viz. to support power in reverence with the people, and to secure the people from the abuse of power, that they may be free by their just obedience, and the magistrates honorable for their just administration; for liberty without obedience is confusion, and obedience without liberty is slavery. To carry this evenness is partly owing to the constitution and partly to the magistracy; where either of these fail, government will be subject to convulsions; but where both are wanting, it must be totally subverted; then where both meet, the government is like to endure, which I humbly pray and hope God will please to make the lot of this of Pennsylvania. Amen.*

—WILLIAM PENN

WILLIAM PENN'S political ideas, like those of the leading theorists of the age, postulated a state of nature anterior to the emergence of society. They rest upon the familiar notions of divine law and of the *jus naturale* implicit in much of the philosophical writing of his time. He set forth his views of social origins in two of his most important political writings; but since these accounts differ in purpose and emphasis, his ideas about man in the pristine stage seem to vary. His several explanations of the teleology of social beginnings, therefore, lack the clearness and consistency exhibited by some other writers. The earlier of Penn's accounts appears in the opening sentences of the famous preface to the First Frame of Government for Pennsylvania of 1682;<sup>1</sup> the

<sup>1</sup>Thorpe, *The Federal and State Constitutions*, V, 3052-3059. The First Frame may also be read in printed form in Hazard, *Annals of Pennsylvania*, pp. 558-568. An earlier draft of this instrument entitled "The Fundamentall Constitutions of Pennsylvania" is printed in *The Pennsylvania Magazine of History and Biography*, XX (October, 1896), No. 3, 283-301. This draft and others of the First Frame are preserved in the Penn MSS Constitutions and Charters. These various drafts show what appears as well from other evidence, that Penn consulted several others in the composition of the document. A comparison of the instrument which finally issued over his signature with the paper printed as "The Fundamentall Constitutions" will reveal some important changes in the proposed machinery and functioning of the government. It will also show an interesting shift of position with

later, in the well-known *Essay towards the Present and Future Peace of Europe*, first printed in 1693.<sup>2</sup>

The explanation in the First Frame clearly follows the story given in the earlier chapters of Genesis. God chose man His deputy to rule the world and endowed him not only "with skill and power, but with integrity to use them justly." Moreover, "this native goodness was equally his honor and his happiness, and whilst he stood here, all went well; there was no need of coercive or compulsive means; the precept of divine law and truth in his bosom was the guide and keeper of his innocence." Primitive man, according to this theory, was essentially happy. Thus, in 1682 Penn accepted Locke's view of the original state of nature.<sup>3</sup> Like Locke, too, the Quaker believed that before organized society appeared justice was a matter of private vengeance and that the cause of the ruin of the primeval happiness was sin. This innocence, wrote Penn, was destroyed by "lust prevailing against duty," when, in the words of the earlier printed draft of the First Frame, man "leant his ear to another voice and followed his lust and did the thing he was forbidden of God."

By 1693 Penn's conception of man in the state of nature had come to resemble that of Hobbes or Pufendorf rather than that of Locke.<sup>4</sup> According to the *Peace of Europe*, he supposed that at first every man was free, every man possessed the character of

regard to the importance of constitutions, a shift which will receive comment later. For discussions bearing on these drafts and the possible contributions of Penn and others, especially Algernon Sidney and Benjamin Furly, see Penn to Sidney, Oct. 13, 1681, in "Inedited Letters of William Penn," Hist. Soc. of Pa., *Memoirs*, Vol. III, Part I, pp. 285-286; "B. F. Abridgement out of Holland and Germany," Penn MSS, Ford vs. Penn; Gooch, *English Democratic Ideas in the Seventeenth Century*, p. 283. See also Channing, "William Penn," Amer. Hist. Assoc., *Annual Rept.*, 1906, I, 194-195; Fisher, *The True William Penn*, pp. 221-224; Graham, *William Penn*, p. 135; Dixon, *A History of William Penn*, pp. 183-186; Russell-Smith, *Harrington and His Oceana*, pp. 171-175; Shepherd, *History of Proprietary Government in Pennsylvania*, p. 239, note 1; pp. 225-242. The scholar to comment most recently on the subject is Hull, *William Penn: A Topical Biography*, pp. 229-231.

<sup>2</sup> *Essay towards the Present and Future Peace of Europe*, pp. 3-22. Quotations from and references to this work have been taken from the edition cited, and the title will be quoted hereafter as *Peace of Europe*. Another edition easily accessible to the general reader is in *Old South Leaflets*, Vol. III, No. 75.

<sup>3</sup> Locke, *Works*, Vol. IV, Book II, chap. ii, pp. 339-347.

<sup>4</sup> Hobbes, *Leviathan*, Part I, chap. xiii and Part II, chap. xvii, pp. 81-86, 115-119; Pufendorf, *Of the Law of Nature and Nations*, Book II, chaps. i and ii, pp. 76, 79, 81-94, especially p. 84.

"royalty"; for out of society every man is his own king, does what he lists at his own peril. . . ." This complete anarchy might imply a theoretical equality among these individual sovereigns, but such an implication does not necessarily follow. Penn, at any rate, did not raise the question; thus he escaped the dilemma which confronts the advocate of liberty and equality. In this state of absolute freedom no man owed any duty to his neighbor. Government was not needed to teach men the right—"by no means; nothing is plainer to them." How ethical standards were to be determined does not appear; but if Penn had been pressed for an answer to such a question, presumably he would have found it in his religious faith. How morality could have existed among men who owed no obligations to each other is not explained. The omission of any discussion of the point illustrates the essentially religious character of Penn's ideas when contrasted with a more strictly logical approach. But he went on to say not that man was merely unmoral; he was by nature immoral. Before society emerged, there was a state of confusion, disorder, injustice. "So depraved," he asserted, "is human nature that, without compulsion some way or other, too many would not readily be brought to do what they know is right and fit or avoid what they are satisfied they should not do." The remedy for such a condition is society; whence comes government. "Government," he declared, "is an expedient against confusion; a restraint upon all disorder; just weights and an even balance that one may not injure another, nor himself, by intemperance." Later in the same essay he wrote: "Government then is the prevention or cure of disorder, and the means of justice, as that is of peace. . . ." Speaking to the council at Philadelphia in the spring of 1700, Penn said: "Since crimes prevail, government is made necessary by man's degeneration. . . ." <sup>5</sup> Did Penn's shift of emphasis, with advancing years, from man's innocency to man's depravity indicate a fundamental change of opinion? If so, was the change the result of increasing maturity or of accumulating experience?

The reader of the Biblical account of "man's first disobedience"

<sup>5</sup> *Minutes of the Provincial Council of Pennsylvania*, I, 596. This work will be cited hereafter as *Col. Rec.*



may find Penn's theory of the state of nature more closely akin to that of Genesis than to that either of Hobbes or of Locke. As early as 1671 he declared unequivocally that "we own civil government or magistracy as God's ordinance for the punishment of evil-doers and the praise of them that do well. . . ." <sup>6</sup> In the preamble of the "Fundamentall Constitutions," he declared that while at first there had been no "need of any external precepts to direct or terrify" man, after the fall such law had come "to awe and terrify such as would not do the thing that was just according to the righteous law within themselves." The explanation in the First Frame of the coming of law follows this general tenor: "the law that had before no power over him [man] took place upon him and his disobedient posterity, that such as would not live conformably to the holy law within should fall under the reproof and correction of the just law without in a judicial administration." Penn is here referring, of course, to the divine law, which to him was the law of nature. His explanation makes no reference to any human consent to law; yet the passage appears as part of a discussion of the state of nature which represents humanity as essentially good, though, of course, disobedient. The discussion of the state of nature in the *Peace of Europe*, on the other hand, supposed humanity to have been depraved and in a state of confusion and disorder; but Penn declared in this work that society was founded in consent: "Thus peace is maintained by justice, which is the fruit of government, as government is from society, and society is from consent." This reasoning suggests, of course, the twofold contract of Pufendorf.<sup>7</sup> Penn summarized by repeating this assertion and adding that society "first came from a reasonable design in man of peace." Was society the fruit of the wrath of God or of the will of man? The Quaker philosopher might have answered that it was the product of both. The preamble of the Great Law, passed at Chester on December 7, 1682, begins with the assertion that "the glory of

<sup>6</sup> Penn to the High Court of Parliament, April, 1671, MS Letter Book of William Penn, 1667-1675, p. 13. This source will be cited hereafter as Letter Book, 1667-1675.

<sup>7</sup> Pufendorf, *op. cit.*, Book VII, chap. ii, secs. 7 and 8, p. 512. Compare Locke, *Works*, Vol. IV, Book II, chap. viii, pp. 391-411, especially p. 395. See also Dunning, *A History of Political Theories from Luther to Montesquieu*, p. 323 and note 1.

Almighty God and the good of mankind is the reason and end of government." <sup>8</sup>

Penn explained societal development according to the patriarchal theory. The father was the head of the family, to be succeeded at death by the eldest male descendant or nearest of kin. From this point on he was not so clear: "Time breaking in upon this way of governing, as the world multiplied, it fell under other claims and forms; and is as hard to trace to its original as are the copies we have of the first writings of sacred or civil matters." <sup>9</sup> Then follows an apparent inconsistency, for in language resembling that of Locke he went on to explain human association on the ground of consent. Thus, he wrote of the "original" to which human society may be traced: "It is certain the most natural and human is that of consent, for that binds freely (as I may say), when men hold their liberty by true obedience to rules of their own making." There would be no contradiction in these theories to one who could write, as did Penn in the First Frame: "When the great and wise God had made the world, of all His creatures, it pleased Him to choose man His deputy to rule it." Penn thus traced the origin of society to God, explained its growth through a divinely guided patriarchate, but derived its political organization—as did Locke—from human consent. A mystic would have no intellectual difficulty in assuming a divine direction of which the earthly agent was the will of man.<sup>10</sup> A Quaker could believe in God as the source of society and in the human race as the means chosen by Divinity to work out His plans.

If Penn's views of societal beginnings lack strict logical consistency, his theories about the ultimate source of sovereignty exhibit the same characteristic. He repeatedly ascribed supreme political power to God. He wrote in the preface to the First Frame, "For there is no power but of God"; and he added, "This settles the divine right of government beyond exception." The

<sup>8</sup> Hazard, *Annals of Pennsylvania*, p. 619. If Penn did identify divine law with natural law, he was merely following the practice of his day. See Figgis, *The Divine Right of Kings*, pp. 176, 178. For an important consequence of the emphasis upon "law as a final authority in human affairs," see Cook, "The Tendency to Obey Law," *Political Science Quarterly*, LIV (1939), 84-97.

<sup>9</sup> *Peace of Europe*, p. 6.

<sup>10</sup> Compare Fox, *The Journal of George Fox*, II, 318; and Sharpless, *Quakerism and Politics*, pp. 106-110.

state had something of the divine in its nature. In language that might have been used to support John Winthrop's "doctrine of magistracy," Penn declared that government seemed to him "a part of religion itself, a thing sacred in its institution and end. . . ." As Winthrop had proclaimed that the magistrates had their "authority from God, in way of an ordinance," so Penn a generation later declared that the Quakers "were for submitting to government; and that, not only for fear, but for conscience-sake, where government doth not interfere with conscience, believing it to be an ordinance of God. . . ." <sup>11</sup> He bitterly condemned the self-will of his "ungrateful and conceited people" in Pennsylvania in words far less judicious than Winthrop's well-known denial of the assumed right of the people "to make or alter laws themselves," which savored so plainly of "resisting an ordinance of God." <sup>12</sup> Yet Penn had also stated other views. In *England's Present Interest*, printed in 1675, he had declared: "There is no government in the world but it must either stand upon will and power or condition and contract; the one rules by men, the other by laws." <sup>13</sup> Four years later, in words resembling those of Roger Williams, he had proclaimed the doctrine that every individual was in some respects sovereign, that "only your own transgression of the laws (and those of your own making too) lays you open to loss." <sup>14</sup> Penn, too, might have written—as did Williams—that "liberty of our persons" consisted in "no life, no limb taken from us, no corporal punishment, no restraint but by known laws and agreements of our own making." <sup>15</sup>

Penn had firm faith in the unity and supremacy of the Divine

<sup>11</sup> *Works*, I, 868. Compare John Winthrop, *The History of New England*, II, 280; and R. C. Winthrop, *Life and Letters of John Winthrop*, II, 339-342.

<sup>12</sup> Penn to Logan, Jan. 16, 1705, MS Logan Papers, I, 56, printed in *Correspondence between William Penn and James Logan*, I, 351-359. This collection is cited hereafter as the *Penn and Logan Correspondence*. See also Penn to Hamilton, April 3, 1701, MS Letter Book of William Penn, 1699-1701, pp. 98-99 (cited hereafter as *Letter Book*, 1699-1701); Penn to Logan, Nov. 2, 1704, Penn MSS—Penn Family to Logan, I, 21; same to same, Feb. 14, 1705, Penn MSS—Penn Family to Logan, I, 22; same to same, March 12, 1709, *Penn and Logan Correspondence*, II, 338-339. Compare Parrington, *Main Currents in American Thought*, I, 46-47.

<sup>13</sup> *Works*, I, 674.

<sup>14</sup> *Ibid.*, II, 679. Compare Ernst, *Roger Williams*, pp. 421-458. For another scholarly analysis of the theories of Williams, see Andrews, *The Colonial Period of American History*, II, 17-22.

<sup>15</sup> Ernst, *op. cit.*, p. 447.

Power, but he was a pluralist rather than an absolutist in his view of political sovereignty. Belasco calls him "a consistent opponent . . . of the theory of state sovereignty."<sup>16</sup> Yet on occasion he expressed views quite inharmonious with those of the pluralist. He wrote, for example, in *One Project for the Good of England*: "This government must have a supreme authority in itself to determine and not be superseded or controlled by any other power, for then it would not be a government but a subjection, which is a plain contradiction."<sup>17</sup> He composed this pamphlet to defend the English government against threatened papal encroachment; this consideration, no doubt, explains the lapse into political monism. Later he returned to the opposite philosophy, for he supported the King's suspension of the penal laws, in opposition to the theory which he himself later denounced as "a downright Parliamentary omnipotency."<sup>18</sup>

Penn never specifically defined any social contract by which the state was constituted, but he did intimate that in forming a society each individual limited his own sovereign powers. When man, he wrote, "comes to incorporate himself, he submits that royalty [with which each individual is endowed in the anterior state of nature] to the conveniency of the whole, from which he receives the returns of protection. . . ." By this submission the individual is the gainer: for "while we are not our own, every body is ours, and we get more than we lose, the safety of society being the safety of the particulars that constitute it. . . ." <sup>19</sup> Such sentiments suggest government by the consent of the governed, a democratic spirit not unlike that expressed by Roger Williams, who wrote in *The Bloody Tenent of Persecution*, "I infer, as before hath been touched, that the sovereign, original, and foundation of civil power lies in the people"; and who stated in *The Examiner Defended*, "The fountain and original of all authority and rule is the people consenting and agreeing in their several combinations

<sup>16</sup> Belasco, "William Penn," *Encyclopaedia of the Social Sciences*, XII, 65.

<sup>17</sup> *Works*, II, 683.

<sup>18</sup> Penn to the Board of Trade, Aug. 26, 1701, Papers of the Board of Trade (cited hereafter as B.T.P.), Vol. VI, Part 1, G 39.

<sup>19</sup> *Peace of Europe*, pp. 6-7. Ogg, *England in the Reign of Charles II*, II, 679, writes: "Penn's ideal was liberty with obedience."

by themselves or their deputies, for their better subsistence.”<sup>20</sup> But sovereignty, in Penn’s opinion, came ultimately from God, though it is distributed among the states of the world by a process quite like that described by Locke or Rousseau.<sup>21</sup> This view of the origins and nature of sovereignty, as Figgis has pointed out, was the theory commonly held by political writers in Penn’s day.<sup>22</sup> As a pluralist, Penn rejected the idea, to be set forth later by the author of the *Contrat social*, that in the formation of society the transfer of sovereignty from the individual is complete. Like Roger Williams, he believed that even after the organization of society every member of the group retained some natural rights; like Williams, he insisted that men should be protected from unjust violation of their liberties or properties.<sup>23</sup> He wrote in 1679 that even after the social order had been established and we “hold all we have from society,” there remains a residue of “royalty” in each individual: “every man is a sort of little sovereign to himself: no man has power over his person to imprison or hurt it, or over his estate to invade or usurp it. . . .”<sup>24</sup> This concept of individual sovereignty suggests the philosophy of the equalitarian; but Penn was no leveler, and political equality for all men was not one of his dogmas. He avoided even the suggestion when he differentiated, in his *Just Measures*, printed more than a dozen years later, between “the liberty that we are to resign to the benefit of society” and “that which is private or personal.”<sup>25</sup> This pluralistic conception of sovereignty furnished the strongest of positions for the champion of religious toleration against the tyranny of an established church.

William Penn referred to his colony in Pennsylvania as “an holy experiment.”<sup>26</sup> The political structure of the society which he sought to establish in America is outlined in the First Frame of Government for Pennsylvania and in the early codes of laws set

<sup>20</sup> Quoted from Ernst, *op. cit.*, p. 424.

<sup>21</sup> Compare Locke, *Works*, Vol. IV, Book II, chap. viii, p. 394; Rousseau, *Du contrat social*, p. 13.

<sup>22</sup> Figgis, *op. cit.*, p. 178.

<sup>24</sup> *Works*, II, 679.

<sup>23</sup> Ernst, *op. cit.*, p. 446.

<sup>25</sup> *Ibid.*, p. 776.

<sup>26</sup> Penn to James Harrison, Aug. 25, 1681, Penn MSS, X, Dom. & Misc. Letters, p. 6.

up for the province.<sup>27</sup> A study of these documents might, therefore, be expected to reveal the chief characteristics of Penn's ideal state. Since the Frame reached its final form, however, only after much consultation with others, repeated drafts, and quite drastic revision, one may not assert that in all cases it accurately defines the Founder's own theories unmodified by contact with the views of friends and advisers. It quite clearly represents considerable compromise. The same comment probably may be made of the Laws Agreed upon in England and of the so-called Great Law, passed at Chester on December 7, 1682. Nevertheless, Penn did approve the Frame and the codes, and where the principles contained in these instruments are those which characterize other writings certainly of his authorship, it must be fair to attribute acceptance of these principles to him. Some of his controversial writings composed for political purposes in England throw light upon his ideas of the state. The various other governmental documents for Pennsylvania and early West Jersey, dating from his time, were in most cases not written solely by him; but some of them surely contain to a large extent the theories to which he would have subscribed.<sup>28</sup> From the study of these sources, together with the reading of some important letters, it is clear that Penn's Utopia would have exhibited: religious toleration; liberty disciplined by altruism; recognition of the primacy of the divine, natural, fundamental, or "eternal" law; government, limited by law and by the consent of those of the governed who were properly qualified, "subservient to an higher end, to wit, the general good"; and the protection of the rights of property, both tangible and intangible.

The cornerstone of the ideal political edifice was religious toleration. For no cause did Penn wage warfare more consistently

<sup>27</sup> The codes to which reference is made are the Laws Agreed upon in England, of May 5, 1682, and the Great Law, passed at Chester on December 7, 1682. The second of these codes is the first somewhat revised and enacted into law by the provincial legislature. The code of May 5, 1682, may be read in Thorpe, *op. cit.*, V, 3059-3063; the same code is also in Hazard, *Annals of Pennsylvania*, pp. 568-574. The Great Law is in Hazard, pp. 619-634.

<sup>28</sup> Other documents for Pennsylvania may be found in Thorpe, *op. cit.*, pp. 3044-3047, 3064-3081. For the Concessions and Agreements for West New-Jersey, see *ibid.*, pp. 2548-2551. See also *Documents Relating to the Colonial History of the State of New Jersey*, I, 241-270. This source is cited hereafter as Whitehead, *Documents*. See also Samuel Smith, *The History of New Jersey*, Appendix II, p. 529.

throughout an active and contentious career. His Concessions and Agreements of 1677 for the new province of West Jersey, building upon a foundation already laid by Berkeley and Carteret, provided that all persons in the province be permitted without question complete freedom of conscience "in matters of religious worship." <sup>29</sup> In the same year Penn joined with others to declare that in these Concessions they had established "a foundation for after ages to understand their liberty as men and Christians, that they may not be brought in bondage, but by their own consent. . . . No person to be called in question or molested for his conscience, or for worshipping according to his conscience. . . ." <sup>30</sup> At one of the stages of his work on the First Frame Penn planned to insert into this constitutional document a guarantee of religious toleration. No provision, however, concerning this subject appeared in the First Frame as it was finally promulgated; but the thirty-fifth article of the Laws Agreed upon in England prohibited the forced attendance upon or maintenance of any religious worship, and decreed that "all persons living in this province who confess and acknowledge the one Almighty and Eternal God to be the Creator, Upholder, and Ruler of the world, and that hold themselves obliged in conscience to live peaceably and justly in civil society, shall in noways be molested or prejudiced for their religious persuasion or practice in matters of faith and worship." The thirty-fourth article of the same code, however, required that governmental officials and the electors of members of the legislature must "profess faith in Jesus Christ." With unimportant verbal changes the thirty-fifth article of the code was enacted by the Pennsylvanian legislators as the first article of the Great Law. This article, however, went on to ordain the abstention of the people from toil on the Lord's Day "to the end that looseness, irreligion, and atheism may not creep in under pretence of conscience, in this province." Plainly, there were limits beyond which even this relatively tolerant people could not suffer difference of religious belief.

Penn's pluralistic views denied to the state any sovereignty over

<sup>29</sup> Whitehead, *Documents*, I, 253; Samuel Smith, *op. cit.*, p. 529. Compare Budd, *Good Order Established in Pennsylvania and New-Jersey*, pp. 323, 375, note 2; Kelsey, "William Penn," *Dictionary of American Biography*, XIV, 434; Clarkson, *Memoirs of the Private and Public Life of William Penn*, I, 170-171.

<sup>30</sup> Samuel Smith, *op. cit.*, pp. 80-81.

conscience, but in the Concessions and Agreements of 1677 he added a qualification. Joining with two colleagues to explain some assertions printed earlier in a paper entitled *The Description of New-West-Jersey*, he denied that for that province it was "promised or intended to maintain the liberty of the exercise of religion by force and arms" or that freedom of conscience was by armed force to be "fenced against invaders thereof." The possibility that this denial may have been motivated by considerations of expediency weakens it, of course, as an expression of Penn's philosophy.<sup>31</sup> It does, however, clearly consist with his theory that governmental coercion and personal religion are incompatible.

"Liberty" to William Penn usually meant "freedom of conscience." Thus he protested to Harley in 1699 that, if the "persecuting temper" should impair liberty of conscience in Pennsylvania, "we must think ourselves very ill-used, to be tantalized with liberty, and as soon as the nation as well as ourselves begin to find the benefit thereof, it should be invaded and overthrown by the envy of a few mercenary clergymen, who are combined to influence the gentry, what they can, to turn the edge of power against us." <sup>32</sup> Penn vigorously championed religious freedom. He wrote in the *Persuasive to Moderation*: "That there is such a thing as conscience and the liberty of it, in reference to faith and worship towards God, must not be denied, even by those that are most scandal'd at the ill use some seem to have made of such pretences." <sup>33</sup> He drew no such formal distinction in his writings as did John Winthrop, who, in the famous "little speech," differentiated between "natural" liberty and "civil or federal" liberty, which "may also be termed moral." <sup>34</sup> Nevertheless, Penn, like Winthrop, believed that certain kinds of freedom could not be tolerated. "I am as much for liberty as any man," he wrote; "I ever was so, and hope I shall ever be for it; but we must refer it to a proper object, or we shall abuse what we do so much prize, and

<sup>31</sup> *Ibid.*, pp. 88, 90. Citing the passage in which these remarks of Penn and his two collaborators appear, Smith says that it was published "lest any should not sufficiently weigh the importance of this undertaking [i.e. removing to settle in New Jersey], and for other reasons." May these "other reasons," if any, have included the wish of the Quakers to guard their experiment against charges that they were intolerably inimical to the Anglican Establishment?

<sup>32</sup> Hist. MSS Com., 14th Report, App., Part II, *Portland MSS*, p. 602.

<sup>33</sup> *Works*, II, 729.

<sup>34</sup> John Winthrop, *op cit.*, II, 281.



pervert one of the greatest privileges we can pretend to.”<sup>35</sup> Winthrop defined “natural” liberty as “a liberty to evil as well as good,” and declared that such license was not to be permitted; like the Puritan, the Quaker seems to have believed that this sort of freedom “makes men grow more evil, and in time to be worse than brute beasts: *omnes sumus licentia deteriores*.” Carrying forward the thought in the *Persuasive*, Penn indicated that though the regulation of religious worship did not fall among “the things that are Caesar’s,” there was a limit even to the exercise of liberty of conscience. Freedom, he thought, did not exist for any to transgress “the bounds of morality.” Conscience must be as obedient to the secular arm in the proper worldly province as it is obedient to God in spiritual concerns. To be tolerated, he said, one must acknowledge “the civil government under which he lives” and maintain “no principle hurtful to his neighbor in his civil property.” The meaning of these ambiguous declarations, of course, depends entirely upon their interpretation. In his *Just Measures* Penn argued for discipline in the government of the church. Defending the institution of separate meetings for women of the Quaker faith, he contended that his opponents were insisting upon that which was “purely discipline in government and not in worship, formality in order and not in religion.” He maintained that such meetings were not matters of faith, that the controversy related to “methods of regulating ourselves, as to the civil or outward part of the church, as we are a society; how we may avoid disorder and preserve the credit of our society from censure and scandal.”<sup>36</sup> If the “bounds of morality,” which he indicated as criteria, were to be determined by the civil authorities, his doctrine would not differ widely from Winthrop’s view of the two types of freedom. Penn used the terms “looseness” and “licentiousness” to mean what Winthrop called “natural” liberty.<sup>37</sup> Isaac Sharpless, the Quaker historian, states that Penn was an enthusiast for liberty.<sup>38</sup> That he was during most of his life an out-

<sup>35</sup> “Just Measures,” *Works*, II, 776.

<sup>36</sup> *Ibid.*, pp. 774-775.

<sup>37</sup> Writing to Governor Hamilton in 1701 about the popular disturbances in East Jersey, Penn denounced the rioters and termed their practices “licentious.” Penn to Hamilton, April 3, 1701, Letter Book, 1699-1701, pp. 98-99. See also the preamble to the Great Law, Hazard, *Annals of Pennsylvania*, p. 619.

<sup>38</sup> Sharpless, *A Quaker Experiment*, Part I, p. 52.

standing, vigorous and consistent exponent of religious toleration can hardly be denied, but that he was interested in all types of liberty is by no means so clear. In the Frame of 1682 and in other documents he bound himself not to interfere with the liberties of his colonists. Yet he did not intend by these renunciations to give sanction to all that might be done in the name of freedom or to refuse those safeguards for the rights of property and wealth which were essential items in his philosophy. "Licentiousness" included a number of things which a perfect libertarian could not prohibit or even frown upon. A convinced democrat could hardly have written, as did Penn: "And yet the latitudinarian that I love is one that is only so in charity, for the freedom I recommend is no scepticism in judgment and much less so in practice." <sup>39</sup>

Penn's limitations upon absolute freedom were, in large part, those suggested by his philosophy of altruism. The ideal state must be founded on this philosophy. In *England's Present Interest* he declared that the foundation of government rested on certain "fundamental laws," the "corner-stones of human structure, the basis of reasonable societies, without which all would run into heaps and confusion." These basic principles were the obligation of every man "to live honestly, not to hurt another, and to give every one their right." <sup>40</sup> In its emphasis upon individualism, Penn's conception of the ideal society seems to rest upon the theory of natural rights. In its insistence that pure individualism must yield to altruism, his idea reflects the doctrine less frequently advanced by political theorists then, and perhaps now, that a perfect social order implies duties as well as rights. Penn's Utopia would have been a state in which men universally practiced the Golden Rule.

Harrington wrote in his *Commonwealth of Oceana*: "The center or basis of every government is no other than the fundamental laws of the same." <sup>41</sup> Penn, likewise, believed in the supremacy of law. He wrote in *England's Great Interest in the Choice of This New Parliament* in 1679: "That which is not legal is a tyranny and not properly a government." <sup>42</sup> He described government in an-

<sup>39</sup> *Fruits of Solitude*, p. 123, maxim 253.

<sup>40</sup> *Works*, I, 675.

<sup>41</sup> Harrington, *The Commonwealth of Oceana*, p. 85.

<sup>42</sup> *Works*, II, 679.

other tract as "a just and equal constitution where might is not right, but laws rule, and not the wills or power of men; for that were plain tyranny." <sup>43</sup> In the "Fundamentall Constitutions," one purpose of good government is defined as "a constitution of just laws wisely set together for the well ordering of men in society. . . ." This definition was removed from the preface of the document in the course of revision; it does not appear in the final draft of the First Frame, though in Scriptural language that instrument does counsel subjection "to the higher power," for "the powers that be are ordained of God."

Penn drew a distinction between "fundamental" and "circumstantial" or "superficial" laws. With reference to the first of these classes his definition bears marked resemblance to that of Harrington. By fundamental laws, wrote Penn in his letter to the justices in Middlesex, "I mean all those laws that constitute the ancient civil government of England and which make up these two words, English men. . . ." <sup>44</sup> He then defined "circumstantial and superficial" laws as all those "suited to state or national emergencies, which are *pro tempore* and away. They live as long as the reason of their lives and then die, oftentimes of themselves. . . . *Cessante ratione legis, cessat lex. . .*" To Penn fundamental law was not thus alterable; it was not *pro tempore* only; it was grounded in the eternal. Such were the laws securing liberty and property, wrote Penn in *England's Present Interest*; therefore, in his opinion, they were inalterable. Inasmuch as the "reason of the alteration of the law ought to be the discommodity of continuing it" and "there can never be so much as the least inconveniency in continuing that of liberty and property; therefore, there can be no just ground for infringing, much less abrogating, the laws that secure them."

These fundamental laws he counted as superior to the power of the legislature. In the pamphlet just mentioned, written in 1675 or earlier, Penn declared "that fundamentals give rule to acts of Parliament." He supported his statement by appealing to English constitutional history and concluded that Parliament had itself

<sup>43</sup> "One Project for the Good of England," *Works*, II, 682.

<sup>44</sup> Penn to J. H. and His Companions, March 31, 1674, Letter Book, 1667-1675, p. 147.

accepted the principle with respect to legislation on the subject of trial by jury.<sup>45</sup> Penn's language, indicating Parliamentary subordination to higher authority, pointedly suggests the later remarks of James Otis in summarizing the views of English judges: "They [the judges] expressly declare that acts of Parliament against natural equity are void. That acts against the fundamental principles of the British constitution are void."<sup>46</sup> Penn had given expression to the legal rule which forms the basis for the doctrine of judicial review. He had declared himself an opponent of the theory that the Parliament was, or could become, supreme within the state. "Now the law," he wrote in *England's Great Interest*, "is umpire between King, Lords, and Commons."<sup>47</sup>

Fundamental law is superior not only to Parliament but also to the will of kings. The "Eternal Law" is based upon moral right and is therefore supreme. Penn told the justices in Middlesex in the letter already cited that: "The civil government of England depends upon law grounded upon sincerity, the eternal law; and it is not by the ancient and fundamental constitution allowable that *meum* and *tuum* should be overruled by any prince whatever." It was the glory of the royal government in England, said Penn, that the ruler "is a prince by right, not might, by law, not power." The king "has power but from and according to law, not that he makes his will and power law."

Laws which are not fundamental possess no such authority; in this same letter Penn argued for the right of the monarch to suspend arbitrarily some acts of Parliament. He maintained that the ruler should have the power to suspend "the execution of but a temporary law, when the execution of it is impracticable without destroying those very ends for which it was first made." The unsolved question, of course, presents itself: what authority is properly to pass judgment in such a case? Penn's ascription of this

<sup>45</sup> *Works*, I, 674-675, 684, 688.

<sup>46</sup> Otis, *The Rights of the British Colonies Asserted and Proved*, p. 109.

<sup>47</sup> *Works*, II, 679. Penn had stated four years earlier that "these fundamentals are unalterable by a representative, which were the result and agreement of English freemen, collectively, the ancienter times not being acquainted with representatives, for then the freemen met in their own persons" *Ibid.*, I, 684. As a commentary upon the constitutional issues just suggested one may well read the illuminating discussion of natural rights and judicial review in McLaughlin, *The Foundations of American Constitutionalism*, chap. v, pp. 125 ff.

power to the monarch, on the principle, as he stated it, that "*summum jus is summa injuria*," is in harmony with his view that for successful government good men are more indispensable than are good laws and frames, a theory which will be discussed later. Yet the distinction between fundamental law and temporary law might raise much disagreement even in an Utopian state. Penn did not settle definitely the role either of executive or of legislative under such a regime. For him the question was soon to be raised most acutely when, as an exercise of the dispensing power, James II published his Declarations of Indulgence. Penn accepted this relief for Dissenters with gratitude but advised the King to have the action ratified by Parliament.<sup>48</sup>

The concept of superior law furnished a strong argument for Penn in his early battles to destroy Parliamentary discrimination against the Quakers. He regarded the penal laws against Dissenters as "circumstantial" laws which might be changed. Perhaps it should be said, with more exactness, that he looked upon such statutes as really no law at all, since they seemed to him to contravene those fundamental rights of Englishmen, which "cannot be altered or abrogated." To him such laws had no rational purpose: "What, then, is the use of penal laws? Only to show the sincerity of them that suffer and cruelty of those that make and execute them."<sup>49</sup>

He found occasion, later, to insist upon fundamental or charter rights in his relations with the home government and in his dealings with the colonists concerning the affairs of Pennsylvania. Sometimes he was obliged to appeal to his lawful rights as against the agents of the Crown or of Parliament; sometimes he had to insist upon his proprietary privileges as against the turbulent settlers, who all too frequently seemed utterly neglectful of the claims of their Founder and his deputies. Thus, in 1703, he urged James Logan, his secretary in the colony, to stand for the more fundamental rights even against written instructions from the Queen: "I admire at your weakness in not keeping to law. Queens never read as well as kings what they sign. . . ." In the same communication he said: "If you will resign the laws, customs, and

<sup>48</sup> See Hull, *William Penn: A Topical Biography*, pp. 256, 260.

<sup>49</sup> "Good Advice to the Church of England," *Works*, II, 755.

usages tamely, instead of persisting until you see what becomes of the laws now with the attorney-general, I can't help it; but a decent refusal were wisest. . . ." <sup>50</sup> He wrote some days later to the deputy governor and council in Pennsylvania: "Stand upon your patent powers and your constitution and laws in pursuance thereof strictly. . . ." <sup>51</sup>

Penn's Utopia, then, would have been firmly based upon law. Human constitutions would govern the ideal state; but above them would be God and nature. He indicated this precedence in *England's Great Interest*, when he urged Englishmen to be mindful of the rights of their posterity, "for whom God and nature, and the constitution of the government" had made them trustees. <sup>52</sup> Above the fundamental guarantees which he described as the English constitution, he placed the "higher law"—"the laws of nature and of nature's God."

Penn insisted that statutory law receive the approval of those whom it bound. In the First Frame he described free government as a regime "where the laws rule and the people are a party to those laws." Elsewhere he wrote: "*Rex et tyrannus* are very different characters. One rules his people by laws to which they consent; the other by his absolute will and power. That is called freedom; this, tyranny." <sup>53</sup> Government by consent would be one guarantee of liberty and, therefore, of peace. Penn would certainly have agreed with Roger Williams that "two inestimable jewels" of the ideal society are liberty and peace. <sup>54</sup>

The Founder's view of law varied with circumstances. When he was the legislator or the executor of law, he tended to exact compliance. When he demanded rights under the law or under a charter, he was likely to insist, like any legalist, upon the letter of the bond. When, however, he spoke as a Quaker, his sympathies led him to the point of nullification in the case of the penal laws, to the point where he was willing to congratulate the monarch on the arbitrary abrogation of an act of Parliament. It is not always easy to play—in one lifetime, and now and then almost simultaneously—both roles of lawgiver and of protestant against legalism

<sup>50</sup> Penn to Logan, Dec. 4, 1703, Penn MSS—Penn Family to Logan, I, 15.

<sup>51</sup> Penn to the Governor and Council of Pennsylvania, Dec. 15, 1703, Logan Papers, III, 71.

<sup>52</sup> *Works*, II, 679

<sup>53</sup> *Fruits of Solitude*, p. 62.

<sup>54</sup> Ernst, *op. cit.*, p. 447.

without detriment to logic and even to the appearance of sincerity.

Penn did not usually draw a clear distinction between the terms "state" and "government." He frequently used these words interchangeably, and this lack of exactness obscures his thought with respect to the two concepts.<sup>55</sup> He did distinguish between "government" and "society," but not always clearly. Often the "society" may be construed in his writings to mean what the political scientist understands by the state. Thus, he declared in the *Peace of Europe* that "justice was the fruit of government, as government was the result of society." In *No Cross, No Crown* he said of covetousness that "it is an enemy to government in magistrates. . . . Next, it hurts society. . . ." <sup>56</sup>

Penn's earlier writings indicate definitely his belief in limited government. *England's Great Interest*, for example, written during the political campaign of 1679, condemned the "papal interest" and warned the public that "that principle which introduces implicit faith and blind obedience in religion will also introduce implicit faith and blind obedience in government." In this pamphlet Penn denounced "that fatal mischief popery brings" by debauching government "so that it is no more the law in the one than in the other [i.e. in government and in religion], but the will and power of the superior that shall be the rule and bond of our subjection." <sup>57</sup> It has been noted, in the discussion of his views of the state, of sovereignty, and of liberty, that he believed in checks upon the right of organized society to control the constituent members. In his earlier writings he was usually the champion of dissenters who were threatened by governmental or ecclesiastical authoritarianism.

Later, his emphasis shifted. He certainly wished, in his more mature years, for well-regulated, efficient government, and such a political condition is frequently incompatible with a large degree of political liberty. "Three things," he wrote, "contribute much

<sup>55</sup> In his *Persuasive to Moderation* Penn used the term "state" in a sense which might be confused with "government," and employed the word "government" in the same sentence *Works*, II, 730. An example of this ambiguity may be found in the first of his maxims under the heading of "Government" in *Fruits of Solitude*, p. 62: "Government has many shapes; but it is sovereignty, though not freedom in all of them."

<sup>56</sup> *Works*, I, 342.

<sup>57</sup> *Works*, II, 681.

to ruin government: looseness, oppression, and envy." Again, he said: "Where the reins of government are too slack, there the manners of the people are corrupted; and that destroys industry, begets effeminacy, and provokes heaven against it."<sup>58</sup> His instructions to his deputies in Pennsylvania stamp him as an advocate of "strong government." He protested, as has been noted, not only against the violation of his Charter by his constitutional superiors, but also, and quite as vigorously, against encroachment upon his governmental prerogatives by the colonists of Pennsylvania. When he wrote them in 1694 that he had recovered his proprietary rights, he urged the Friends in the colony to "be careful that the Charter be strictly observed, and all vice and impiety diligently suppressed."<sup>59</sup> Ten years later, in great disillusionment, he declared that in Pennsylvania "we have to do with a disingenuous, unsociable sort of people . . . that I have done regarding in any other way than that of a just authority. . . ." He urged that the colonial officials be resolute in the exercise of their powers: "Though I would not have my officers and magistrates walk too near the edges and ridges of the powers of my patent and laws of the country, so neither would I have them be cowed, while they keep within compass thereof in the just execution of their offices, but assert the powers of my grant and authority of their laws, as with wisdom so with resolution. . . ."<sup>60</sup> He left unanswered the questions as to how limitations upon magisterial power were to be determined and officials constrained to keep within those limitations. The general tone of his remarks shows that he expected his officers to interpret for themselves the extent of their powers rather than to accept the views of the governed, who had fallen so low in his estimation. He thus demonstrated his belief in wide governmental powers vested in the executive and in great administrative discretion as to their exercise. In these later years, and with reference to his American colonists, he was not the rebel against authority, but the administrator in power, threatened by dissenters who wished greater liberty.

<sup>58</sup> *Fruits of Solitude*, p. 66.

<sup>59</sup> Penn to Friends in Pennsylvania, Nov. 24, 1694, in "Inedited Letters of William Penn," *Hist. Soc. of Pa., Memoirs*, Vol. III, Part I, p. 288.

<sup>60</sup> Penn to Puckle, April 8, 1704, Penn MSS, X, Dom. & Misc. Letters, p. 92. Compare Penn to Evans, Aug. 9, 1703, Huntington Library MSS, HM 1542.



If the origin of the state be divine fiat, government (the organ of the state) must have had its source in the will of God. Penn declared in the First Frame that "the law . . . was added because of transgression." Drawing further upon the Apostle Paul, he adjured his readers to be submissive to the will of Heaven: "for there is no power but of God . . . whatsoever, therefore, resisteth the power, resisteth the ordinance of God, for rulers are not a terror to good works, but to evil." Penn told the council in Philadelphia in April, 1700, that government was "not an end but a means; he who thinks it to be an end, aims at profit—to make a trade of it—but he who thinks it to be a means, understands the true end of government."<sup>61</sup> Early in the history of his colony he stressed the function of government as a check upon wickedness. He wrote in 1687 to some friends in Pennsylvania: "I recommend to you the vigorous suppression of vice, and that without respect to persons or persuasions. Let not foolish pity rob justice of its due and the people of proper examples. . . ." In the same communication he enjoined his readers: "As I have given you a large and full power, I hope and expect you will use the same to God's glory, the country's good, and that will be your lasting honor. . . ."<sup>62</sup> Nine years later, hearing that in Pennsylvania "vice reigns to the reproach of the province," Penn directed Turner to urge Governor Markham "to suppress it with an high hand."<sup>63</sup> Because of the fall of man, government was necessary *ad majorem Dei gloriam*.

Penn thought that government was properly vested with functions other than those merely of suppressing disorder and injustice among men. As the Reverend John Wise declared that "the end of all good government is to cultivate humanity, and promote the happiness of all,"<sup>64</sup> Penn wrote that "the good of the whole must needs be the interest of the whole, and consequently the interest of the whole is the reason and end of government." Interest had a "good signification," thought Penn, and that was "a legal endeavor to keep rights, or augment honest profits, whether it be in a

<sup>61</sup> "Speech of William Penn, Addressed to the Provincial Council of Pennsylvania," April 1, 1700, Hist. Soc. of Pa., *Memoirs*, Vol. II, Part II, p. 188.

<sup>62</sup> Penn to "Dear Friends," Oct. 21, 1687, Penn MSS, X, Dom. & Misc. Letters, p. 87.

<sup>63</sup> Penn to Turner, Dec. 25, 1696, Dreer Collection—William Penn's Letters, p. 41.

<sup>64</sup> Wise, *Vindication of the Government of the New England Churches* (1717), pp. 54-55, in Parrington, *Main Currents in American Thought*, I, 122, note 5.

private person or a society.”<sup>65</sup> The functions of government, then, would include the protection of certain human rights and the encouragement of the acquisition of “honest profits.” On another occasion, however, he stated explicitly that he did not measure the value of government in terms of wealth. He wrote to the council in Pennsylvania in 1686: “Tis not wealth or trade that makes a government great; the noblest examples of government that Time has delivered down to us had little of either.” The really praiseworthy qualities were “sobriety, peace, temperance, labor, and equal administration...”<sup>66</sup> More comprehensive than any of these statements is that in the preamble of the “Fundamentall Constitutions,” wherein it is declared that “the governors and governed have but one interest by the constitution: to wit, preserving of right to all and punishing corruption in all, which is the end of government.”

On the subject of what “manner or frame of government... shall preserve magistracy in reverence with the people and best keep it from being hurtful to them,” Penn’s ideas seem to have undergone considerable change during the drafting of the First Frame. On this subject the preamble in the “Fundamentall Constitutions” read: “This is a matter of great weight, but once to be well done, and that is by the founders of governments. An error here is a successive mischief to the governed in every age, and what troubles have followed in ancient and present governments from this unskillfulness are rather to be lamented and avoided than in the least doubted.” For some reason Penn changed his mind on the importance of forms and constitutions of government, and in the final draft of the preamble to the First Frame, he seems plainly to have shared Alexander Pope’s famous theory that “whate’er is best administer’d is best.” He stated there that he could properly say little about “particular frames and modes.” The first reason for such reticence was the desire to avoid controversy: “The age is too nice and difficult for it, there being nothing the wits of men are more busy and divided upon.” One wonders whether these words do not contain at least part of the explanation for the alteration in the Frame. Were the differences

<sup>65</sup> “One Project for the Good of England,” *Works*, II, 682-683.

<sup>66</sup> Dreer Collection—William Penn’s Letters, p. 18

of opinion among Penn's advisers so great that they could not well be reconciled in a dogmatic statement of theory? Or was the Founder persuaded that the form of government is less important than its administration? He said, at any rate, in the final draft of the preamble: "I do not find a model in the world that time, place, and some singular emergencies have not necessarily altered, nor is it easy to frame a civil government that shall serve all places alike." At this time he thought that men were more important to government than were laws: "That, therefore, which makes a good constitution must keep it, viz men of wisdom and virtue." This idea is the theme of the famous passage following:

There is hardly one frame of government in the world so ill-designed by its first founders that in good hands would not do well enough; and, story tells us, the least in ill ones can do nothing that is great or good; witness the Jewish and Roman states. Governments, like clocks, go from the motion men give them; and as governments are made and moved by men, so by them they are ruined too. Whether governments rather depend upon men than men upon governments, let men be good and the government cannot be bad; if it be ill, they will cure it. But if men be bad, let the government be ever so good, they will endeavor to warp and spoil it to their turn.

Asserting that he knew "what is said by the several admirers of monarchy, aristocracy, and democracy," he declared: "But I choose to solve the controversy with this small distinction, and it belongs to all three, any government is free to the people under it, whatever be the frame, where the laws rule and the people are a party to those laws, and more than this is tyranny, oligarchy, or confusion."<sup>87</sup> Nearly twenty years later, in a passage suggestive of Montesquieu, Penn stated his belief that political forms should vary to suit human needs: "All places as well as people and languages have their peculiarities, and a just consideration thereof contributes much to proper methods for their respective benefit."<sup>88</sup>

In spite of the views which have just been discussed, Penn's maxims give no indication that he had thought seriously of any

<sup>87</sup> Thorpe, *op. cit.*, V, 3053-3054.

<sup>88</sup> Penn to Harley, circa 1701, Hist. MSS Com., 15th Report, App., Part IV, *Portland MSS*, p. 30.

type of political organization other than the monarchical.<sup>69</sup> Not one of them mentions another form of government; but the terms "king," "prince," and "ruler" occur repeatedly. The monarch, however, must not be absolute; he must rule the people "by laws to which they consent." Beyond this proviso, some of Penn's remarks on rulers seem to advocate benevolent despotism rather than even limited monarchy. Thus, he declared that freedom "is endangered by the ambition of the populace which shakes the constitution"; that "it profanes government to have the credit of the leading men in it subject to vulgar censure, which is often ill-grounded"; that "the safety of a prince, therefore, consists in a well-chosen council; and that only can be said to be so where the persons that compose it are qualified for the business that comes before them." To the king Penn recommended justice; to the people, obedience. Then he added some bits of practical advice for the kings: "let the people think they govern, and they will be governed"; "that prince who is just to them in great things and humors them oftentimes in small ones is sure to have and keep them from all the world. . . . For the people is the politic wife of the prince that may be better managed with wisdom than ruled by force." When Isaac Sharpless referred to Penn as "one of a little band of ardent republicans" and Thorpe called him "one of the first American democrats," they certainly had little warrant to do so from his maxims on government as set forth in *Fruits of Solitude*.<sup>70</sup>

Though Penn did not advocate the divine right of kings, his

<sup>69</sup> *Fruits of Solitude*, pp. 62-67. See especially maxims 331, 337, 339, 340, 359, and 360.

<sup>70</sup> Sharpless, *Quakerism and Politics*, p. 19; Thorpe, *Constitutional History of the United States*, I, 152. Russell-Smith, *op. cit.*, p. 167, thinks that Penn might be called a "gentlemanly republican." Writing of the political campaign of 1679, Gooch, *op. cit.*, p. 283, says that Barillon represented Penn as the "joint leader of the popular party." On the whole, Gooch does not consider Penn an important figure in the democratic movement of his day. Dixon, *William Penn*, p. 188, asserts that in his constitutions "Penn anticipated the modern radicals." Hull, *William Penn: A Topical Biography*, p. 227, says: "Over against the Stuart conception of 'the divine right of kings,' he placed his conception of 'the divine right of government.'" On the other hand, Fisher, *op. cit.*, p. 219, says. "Penn. . . was not a republican." Stoughton, *William Penn*, p. 156, in calling Sidney a republican, writes that he "cannot find that Penn ever was." Buell, *William Penn*, p. 122, says: "Penn, though a believer in freedom of conscience, was never a republican or a democrat as Sidney, for example; nor a liberal in politics, as Cromwell, Ireton, and Hampden."

writings give no indication that he was disloyal to the monarchy of Charles II or, particularly, to that of James II. He objected, of course, to the persecutions of the Quakers, and in supporting the campaigns of Algernon Sidney for election to Parliament, he was opposing the royal will. He denounced the evils in contemporary English society, but he never urged as a remedy the overthrow of the monarchy. On the contrary, one of his most frequently emphasized arguments for religious toleration was the contention that liberty of conscience would strengthen the monarchy.<sup>71</sup> In 1683 he wrote in praise of the autocratic Sir Edmund Andros that "he certainly did great things more than both his predecessors and if I had a place worthy of his care I would give him ten thousand acres of land and the command of the three counties and use him always as my friend."<sup>72</sup> He composed an "Address to King James II on his Accession to the Crown," in which he congratulated the monarch on "the fair accession to the imperial Crown, in which the Providence of God hath so conspicuously appeared, that it hath added a divine to an unquestionable natural right. . . ." <sup>73</sup> He wrote to the council in Pennsylvania in 1686, referring to "God, by Whom kings reign and princes decree justice" and instructing that body to give no offense to agents of the Crown.<sup>74</sup> It has already been noted that in 1687 Penn supported James II in the Declarations of Indulgence, though with the provision that Parliament subsequently legalize the royal action. Biographers agree that the Quaker was on friendly, if not intimate, terms with both Charles II and James II. He seems in some respects, therefore, to have been in practice a tacit supporter of despotism, if not of kingship by divine right.

Penn's views on the subject of property will be discussed at length later in the present study; but the fact should be noted at this point that among the characteristics of his Utopian society would be the preservation of the rights of private ownership. Penn was a consistent defender of property. While in his writings the

<sup>71</sup> *Works*, II, 727-749.

<sup>72</sup> Penn to ——— July 30, 1683, Penn MSS, I, Additional Miscellaneous Letters, p. 3.

<sup>73</sup> "Inedited Letters of William Penn," *Hist Soc. of Pa., Memoirs*, Vol. III, Part I, pp. 286-287.

<sup>74</sup> Dreer Collection—William Penn's Letters, p. 18.

concepts "liberty" and "property" are not synonyms, they are included as the two elements implied by "ownership." In *England's Present Interest* he considered "ownership" as one of "the three fundamentals comprehended and expressed to have been the rights and privileges of Englishmen."<sup>75</sup> The security of liberty and property was so vital, he wrote later in the same argument, that "there can be no just ground for infringing, much less abrogating, the laws that secure them."<sup>76</sup> This propertied idealist of the seventeenth century did not conceive any necessary antagonism between what is termed the "rights of property" and the "rights of humanity." He considered the former incontestably part of the latter. Every man had a right to own and enjoy his property, whether that property be material wealth or the legal guarantee of liberty of conscience. Inequality in the distribution of worldly goods was not questioned.

In practice William Penn frequently exhibited tendencies and principles suggestive of the liberal philosophers of his day. His early willingness, for example, to amend his Frame of Government to make it more satisfactory to the people under it approached the ideal of government by the consent of the governed. When, later, he acceded, though reluctantly, to the Charter of 1701, he went even further along the road to political liberalism. In his definition of a free government and his insistence that the people be "a party to" the laws, he was a Lockian. On the other hand, as early as 1685 he was complaining of the distressing "factiousness" of his colonists under the Frame of 1683; soon after the granting of the Charter of 1701 he expressed regret to Logan that he had ever granted it. He even threatened to revoke it. In other letters to his secretary he seemed almost as impatient with the practical working of democracy in Pennsylvania as John Winthrop was contemptuous of democracy itself. Penn's views of the state were not those of a liberal like Roger Williams, nor were they those of an authoritarian like Winthrop. The Quaker shared certain beliefs with both, agreed in some respects with one and disagreed in those same respects with the other, and held certain theories to which neither would have subscribed. Penn's political ideology and his career, in short, support the generalization of

<sup>75</sup> *Works*, I, 682.

<sup>76</sup> *Ibid.*, p. 688.

Figgis: "No system of politics can be immutable. It is impossible in framing a doctrine of government to lay down eternal principles, which may never be transgressed." <sup>77</sup> Penn was a political pragmatist. When he philosophized calmly, his political Utopia tended in some respects to approach the ideals of Williams; when he found himself confronted by the practical necessities of action, he was sometimes inclined, like Winthrop, to make short shrift of democratic vagaries.<sup>78</sup> *Tempora mutantur, et nos mutamur in illis.*

<sup>77</sup> Figgis, *op. cit.*, p. 153

<sup>78</sup> Dobree, *William Penn*, p. 303, stressing the inconsistency in Penn's theories, writes: "Yet the root of his [Penn's] trouble struck deeper than that, into an inner contradiction, on the upper levels of consciousness, in his brain, he was democratic, but fundamentally he believed in autocracy."

### Chapter III

## FOUNDER AND GOVERNOR

*There may be room there, though not here, for such an holy experiment*

*Good government, then, is a constitution of just laws wisely set together for the well ordering of men in society, to prevent all corruption or justly to correct it, wherein it is most evident that the governors and governed have but one interest by the constitution: to wit, preserving of right to all and punishing corruption in all, which is the end of government and consequently of governors*

*... neither I, my heirs nor assigns, shall procure or do any thing or things whereby the liberties in this charter contained and expressed shall be infringed or broken ..*

*Pray fail not to recommend to them unanimity and dispatch and let that government for this time be an instance that the people in America are not everywhere so contentious and full of themselves but that some of them can at some time agree to see and pursue their own good as becomes reasonable and moderate men.. —WILLIAM PENN*

THE COMMONLY accepted idea that Pennsylvania was granted to Penn in payment of a debt owed by the Crown to Sir William, his father, rests upon the Quaker's own words.<sup>1</sup> The language of the royal Charter indicates that the King conferred the province upon the son of the Admiral in recognition of the latter's important services in the war with the Dutch. This

<sup>1</sup> Journal of the Board of Trade (cited hereafter as B.T.J.), III, 173-174, and XIX, 53-54 (entries for June 14, 1680, and for Jan. 31, 1706/7); B.T.P., IX, P 100 (Dartmouth's letter of July 31, 1710); Penn to Harley, Aug. 27, 1701, and Feb. 9, 1703/4, Hist. MSS Com. 15th Report, App., Part IV, Portland MSS, pp. 20-21, 79-81. Mood, "William Penn and English Politics in 1680-81," *Jour. of the Friends' Hist. Soc.*, XXXII (1935), 3-21, challenges the traditional explanation of the transaction. He alleges that the Founder's assertion was designedly incomplete, that the King really set aside the territory in order to encourage a large emigration of Whig partisans and thus weaken the political opposition at home, that Penn sought and obtained the grant because in 1680 and 1681 the fortunes of the English Whigs and Quakers were at so low an ebb that departure from the mother country seemed the best course for them to take. Hull, *William Penn: A Topical Biography*, p. 221, note 472, is critical of Mood's suggestions but accepts them in part. Andrews, *The Colonial Period of American History*, III, 279-280, note 2, discusses Mood's thesis without acceptance or entire disagreement.



document also ascribes to the Founder "a commendable desire to enlarge our English empire, and promote such useful commodities as may be of benefit to us and our dominions."<sup>2</sup> Penn on several occasions expressly included the aggrandizement of the British Crown and nation among his motives.<sup>3</sup> The Charter suggests, too, that he also had in mind the conversion of the Indians to Christianity; but none of his writings indicates that this purpose was important. He had private economic incentives, apart from the patriotic and imperialistic designs just mentioned: he regarded the province as a potentially profitable investment.<sup>4</sup> He certainly wished to found a home for his family and himself in the New World.<sup>5</sup> More important than any of these purposes, however, was the idealistic design of setting up in Pennsylvania an exemplary political organism where greater freedom might be possible than could be had in Europe, a haven where religious toleration might prevail.

Penn's letter to James Harrison of August 25, 1681, contains the well-known passage in which the Founder described his colonial venture as "an holy experiment."<sup>6</sup> He wrote in the same document that the settlement of a government was "the great end of my going." The careful and painstaking revision of the First Frame, the introduction of institutions not present in the contemporary English governmental order, indicate his wish to ex-

<sup>2</sup> Thorpe, *The Federal and State Constitutions*, V, 3036. But see also the royal "Declaration to the Inhabitants of the Province of Pennsylvania, April 2, 1681," Huntington Library MSS, HM 3062, in which it is stated that the grant was made "in consideration of the great merit and faithful services of Sir William Penn, deceased, and for diverse other good causes" Some Englishmen thought that Pennsylvania might serve as a penal colony. See Hilton to Kenyon, Feb. 19, 1682/3, Hist. MSS Com., *14th Report*, App., Part IV, *Kenyon MSS*, p. 158

<sup>3</sup> Hazard, *Annals of Pennsylvania*, p. 488. Compare Penn to Harrison, Aug. 25, 1681, Penn MSS, X, Dom. & Misc. Letters, p. 6; Penn to Dartmouth, July 28, 1683, Taylor Papers, I, 77.

<sup>4</sup> Penn to Harrison, Oct. 22, 1687, Penn MSS, X, Dom. & Misc. Letters, p. 35; Penn to Turner, Dec. 25, 1696, Dreer Collection—William Penn's Letters, p. 41. See also *Penn and Logan Correspondence*, I, 112, 161, 164, 279-280.

<sup>5</sup> *Pennsylvania Archives*, I, 111 (entry for March 30, 1700); "Speech of W. Penn to the Provincial Council of Pennsylvania," Hist. Soc. of Pa., *Memoirs*, Vol. II, Part II, p. 189. See also Penn to Logan, July 8, 1701, *Penn and Logan Correspondence*, II, 235; and Penn to the Lords Commissioners of Trade and Plantations, received and read Feb. 2, 1710/11, B.T.P., IX, Q 9, entered F, folio 250.

<sup>6</sup> Penn MSS, X, Dom. & Misc. Letters, p. 6. This autograph is badly mutilated. The letter has been partially printed in Hazard, *Annals of Pennsylvania*, pp. 522-523.

emplify an ideal political organism. He desired, as Williamson has well stated, "a colony in which he could put his own pronounced views to a trial unhindered by prior occupation of the field."<sup>7</sup> More than a score of years later, in opposition to the threatened cancellation of his political privileges in Pennsylvania, he argued that the government was more important to him than the mere title to the land. "This [the government]," he wrote, "is the diamond, the soil but the ring."<sup>8</sup> His readiness to alter the details of his scheme and his willingness to submit important provisions to amendment at the hands of the colonists indicate the absence in his character of the dogmatism so often to be found in the Utopian theorist.<sup>9</sup> The striking inconsistencies and contradictions already noted in his political philosophy support the thesis that he lacked the logically organized theories of the doctrinaire. His desire for a new social or political order was quite subordinate to his wish for religious toleration. To the Indians he said that he sought nothing but the honor of God's name and "that we, who are His workmanship, may do that which is well pleasing to Him."<sup>10</sup>

Penn wrote into the earliest complete draft known of the First Frame "as the first fundamental of my country, that every person that does or shall reside therein shall have and enjoy the free possession of his or her faith and exercise of worship towards God, in such way and manner as every person shall in conscience believe is most acceptable to God. . . ." He stated explicitly that every one who "useth not this Christian liberty to licentiousness, that is to say, to speak loosely and profanely of God, Christ, or religion, or to commit any evil in their conversation, he or she shall be pro-

<sup>7</sup> Williamson, "The Colonies after the Restoration," *The Cambridge History of the British Empire*, I, 254. Compare Channing, *A History of the United States*, II, 106. In note 2 on the same page Channing refers to the theories that Admiral Penn or George Fox may have been the originator of the "holy experiment."

<sup>8</sup> Penn to Harley, Aug. 27, 1701, Hist. MSS Com., 15th Report, App., Part IV, Portland MSS, p. 21.

<sup>9</sup> *Col. Rec.*, I, 70, 71, 72, 596 (entries for March 30 and 31 and April 2, 1683, and April 1, 1700). See *William Penn's First Charter to the People of Pennsylvania*, edited by Myers, "Historical Note"; Jernegan, *The American Colonies*, pp. 210-211; Andrews, *Colonial Self-Government*, pp. 191-194; Channing, *op cit.*, pp. 120-121; Osgood, *The American Colonies in the Seventeenth Century*, II, 255-256.

<sup>10</sup> "William Penn's Second Letter to the Indians," April 21, 1682, Hist. Soc. of Pa., *Memoirs*, VI, 252. See also Root, *The Relations of Pennsylvania with the British Government*, p. 378.

tected in the enjoyment of the aforesaid Christian liberty by the civil magistrate.”<sup>11</sup> He wrote in 1705 that he had designed his American colony to be free for all those who “should go thither”; that while it had been planned “more especially” for the Quakers, he had not wished to infringe upon the consciences of others.<sup>12</sup> Penn plainly did not intend to violate the religious liberties of any Christian who chose to dwell in Pennsylvania, but his emphasis was definitely on toleration for Quakers. Such a conclusion does not diminish the importance of the fact that he contemplated a colony free “for all mankind.” To no small degree such freedom was realized.

Penn clearly stated from the beginning that a large, if not the principal, object for the establishment of his colony was the creation of a refuge for the Quakers. He defended the political scheme in Pennsylvania against a Quaker critic early in 1683 with the argument that Friends there had been favored as far as was practically possible. His correspondent had contended that the proprietor’s authority should be limited and the Quakers given more, if not exclusive, political power in the province. Penn agreed “that the entailment of the government of this province may be to David’s stock, the tribe of Judah” and “that God’s power among honest Friends should have the rule and dominion, and that is David’s stock in spirit.” He doubted, however, that the augmented political power of the Quaker colonists would insure them against corruption. He questioned whether non-Quakers could be excluded from all share in the government both because of the danger of forfeiture of the Charter and because the Quakers would appear selfish and inconsistent. It would then seem that they were doing in their own colony precisely what they had opposed when done by the Anglicans in England.<sup>13</sup> Penn wrote into his instructions to Governor Evans another assertion that Pennsylvania was founded as a haven for Quakers, “the originals of the colony.” The

<sup>11</sup> *The Pennsylvania Magazine of History and Biography*, XX (1896), 286-287. See also Sharpless, *A Quaker Experiment*, pp. 119-120, where the first article of this draft of the Frame is quoted.

<sup>12</sup> Penn to Mompesson, Feb. 17, 1704/5, *Penn and Logan Correspondence*, I, 373. See also Penn to Logan, Aug. 27, 1703, Penn MSS—Penn Family to Logan, I, 12.

<sup>13</sup> Penn to ——— Feb. 5, 1682/3, Society Miscellaneous Collection. This letter is printed in part in Shepherd, *History of Proprietary Government in Pennsylvania*, p. 177.

Founder directed his deputy to oppose any law providing for the raising of a militia "that may be penal or affect the persons or estates of Friends, that when they went and ventured themselves with me into America, hoped to be rid of these encumbrances. . . ." <sup>14</sup> In his last letter to Logan—the pathetic epistle interrupted by the onset of his mental incapacity—he indicated his disappointed wish that in Pennsylvania "Friends had had a country which Friends there and here may have time hereafter to consider of. . . ." <sup>15</sup>

The "holy experiment" was to be an example for the world to view. The Founder insisted, therefore, upon exemplary moral character as a qualification for those in civil authority in the province. He was aware also that enemies would be pleased to find matter for criticism in the administration of Pennsylvania. As he wrote the council: "Many eyes are upon you; and . . . 'tis not a faith without works that will remove it. Private offenses are made the public's, where the public does not punish them; and where they are duly rewarded, the dishonor is prevented and malice has nothing to work upon." <sup>16</sup> Years before he had laid down the dictum that as criteria for eligibility to serve in the government "manners and capacity" were superior to opinion. <sup>17</sup> He had specified in a later campaign pamphlet those qualities which unfitted men to be members of Parliament. He denounced as improper representatives of the people those who were the givers of bribes, pensioners, court officers, indigent persons, ambitious men, "prodigal or voluptuous persons," neighbors "ill affected to your interest," indolent men, "men of fearful dispositions," intolerant men. <sup>18</sup> He insisted always upon the principle that only men of virtue be placed in authority in Pennsylvania. Just what virtues were to be considered indispensable to such officers he did

<sup>14</sup> Penn to Evans, Aug. 9, 1703, Penn MSS—Granville Penn Book, p. 7; Penn to Logan, Aug. 27, 1703, Penn MSS—Penn Family to Logan, I, 12. Penn wrote here of "a colony and constitution of government made by and for Quakers."

<sup>15</sup> Penn to Logan, Oct. 4, 1712, Penn MSS—Penn Family to Logan, I, 50. This letter contains Penn's bitter complaint about the failure of the Pennsylvanians to heed his advice: "But I am not to be heard either in civils or spirituals, till I am dead." Hannah Penn wrote a postscript on Oct. 13, explaining that her husband had been stricken before he had been able to complete the letter.

<sup>16</sup> Penn to the Council, 1686, Dreer Collection—William Penn's Letters, p. 18.

<sup>17</sup> "England's Present Interest," *Works*, I, 703.

<sup>18</sup> "England's Great Interest," *Works*, II, 680-681.

not specify. Presumably he meant those qualities then commonly accepted as virtuous; but his expressions are quite too vague for practical application. Were an appointing officer or one vested with the power of removal from office, for instance, permitted to define official virtue as he saw fit, the possibilities of abuse would be numerous. Penn exhorted the council in 1686 to be mindful "that your station obliges you to be the lights and salt of the province, to direct and season those that are under you by your good example."<sup>19</sup> He instructed the governing commission in his province the following year to "retrieve the dignity of the courts and session, and remove all persons unqualified in morals or incapacity."<sup>20</sup> He wrote later requiring that no person be suffered "in the government that is by any [undecipherable word] of conversation a scandal to it and good living over [undecipherable word]. This government must preside and it concerns you mightily. . . ." <sup>21</sup> He instructed the deputy Blackwell, in 1689, to "have an especial care . . . that the magistrates live peaceably and soberly, for I would not endure one loose or litigious person in authority. . . ." <sup>22</sup> He wrote to Evans fourteen years later, that "no corrupt, uncapable [*sic*] or negligent officers be kept in or put in to any employment. . . ." <sup>23</sup> He urged upon Harley that the officers in the colonies should be "men of estates, good morals and character at home, or they are a punishment in lieu of a benefit. . . ." <sup>24</sup> The Founder's sympathy with the Quaker refusal to honor government and governors by "empty titles, and servile and fantastic gestures, and drinking of their healths" would have obliged him to insist that those in authority be worthy of respect more genuine than that which expresses itself solely in such externals. He placed his recommendations, however, on more practical grounds. "Where example keeps pace with authority," he wrote, "power hardly fails

<sup>19</sup> Dreer Collection—William Penn's Letters, *loc. cit.*

<sup>20</sup> Penn to Thomas Lloyd, Turner, Moore, Claypole, and Eccle, June 6, 1687, Penn MSS, X, Dom. & Misc. Letters, p. 85.

<sup>21</sup> This letter is addressed simply to "Dere friends." The date does not appear on its face, but in handwriting other than that in which the letter is copied is entered on the reverse the date "7 mo. 24. 1688." This copy is preserved in the Etting Collection—Early Quakers and the Penn Family, p. 6.

<sup>22</sup> Penn-Forbes Collection, I, 10. These instructions are dated Nov. 25, 1689.

<sup>23</sup> Penn to Evans, Aug. 9, 1703, Penn MSS—Granville Penn Book, p. 7.

<sup>24</sup> Penn to Harley, circa 1701, Hist. MSS Com., 15th Report, App., Part IV, Portland MSS, p. 30.

to be obeyed and magistrates to be honored.”<sup>25</sup> He advised the council in his letter of 1687: “Show your virtues but conceal your infirmities. This will make you awful and reverend with the people....” He wrote in the same letter, somewhat in the nature of a summary: “Justice, mercy, temperance of spirit are high qualities and necessary ones in government.”<sup>26</sup>

Penn would perhaps have placed first among desirable magisterial characteristics the virtue of justice. He opened his early letter to the mayor of Dublin with the remark that it is the magistrate’s duty “to hear and redress the oppressed, not to revile them.”<sup>27</sup> Several of his maxims on government deal with the quality of justice in rulers.<sup>28</sup> His reasoning in these aphorisms was based on pragmatic considerations. “Where the ruler is just, he may be strict; else it is two to one it turns upon him; and though he should prevail, he can be no gainer where his people are the losers.” Again, he wrote: “As often as rulers endeavor to attain just ends by just mediums, they are sure of a quiet and easy government; and as sure of convulsions, where the natures of things are violated or their order overruled.” He commanded his deputies in Pennsylvania that they exercise “special care that sheriffs and clerks of the peace impose not upon the people....”<sup>29</sup>

<sup>25</sup> *Fruits of Solitude*, pp. 62-63

<sup>26</sup> Penn MSS, X, Dom. & Misc. Letters, p. 85. Penn stated in the *Testimony to the Truth of God*, the doctrine held by Friends concerning the magistracy and those in authority in the following words: “For we not only really believe magistracy to be an ordinance of God, but esteem it an extraordinary blessing, where it is a praise to them that do well, and a terror to evil-doers....” *Works*, II, 878. See the discussion of Winthrop’s and Calvin’s views of the proper character of magistrates set forth in Parrington, *Main Currents in American Thought*, I, 42: “God calls to the post of duty those best fitted to serve. As a devout follower of Calvin, Winthrop must have often pondered upon the passages in the *Institutes* which set forth the nature of magistracy and the duties of the magistrate, and in particular this ‘If they remember that they are the vicegerents of God, it behooves them to watch with all care, diligence, and industry, that they may exhibit a kind of image of the Divine Providence, guardianship, goodness, benevolence, and justice.’”

<sup>27</sup> Letter Book, 1667-1675, pp. 93-94. The letter is undated.

<sup>28</sup> *Fruits of Solitude*, pp. 62-67, maxims 329 to 369. Among others, note maxim 341: “But where the magistrate is partial and serves ill turns, he loses his authority with the people and gives the populace opportunity to gratify their ambition, and so lays a stumbling block for his people to fall.” Maxim 366 reads. “‘He that ruleth over men must be just, ruling in the fear of God,’ said an old and wise king.”

<sup>29</sup> Penn, “Instructions for Lieutenant Governor Blackwell,” Nov. 25, 1689, Penn-Forbes Collection, I, 10.

and that the magistracy be carefully supervised "to the end there may be no defect or obstruction of justice, more especially in the cases of poor people. . . ." <sup>30</sup> He was a friend of the Indians; yet he demanded justice in dealing with them. He wrote Holmes in 1685 urging the proper chastisement of a native: "If the Indian[s?] will not punish him, we will and must, for they must never see you afraid of executing the justice they ought to do." <sup>31</sup> He took the initiative in promoting colonial legislation to regulate the courts of justice in Pennsylvania, <sup>32</sup> and on occasion he himself held court and administered the law in civil and criminal cases. <sup>33</sup> He wrote in *Fruits of Solitude* that the mercy of kings "should be above all their works," and on occasion in his character as judge he permitted mercy to season justice. <sup>34</sup> Nevertheless, he wrote in the language of him who believes that usually the law must be permitted to take its course. <sup>35</sup> For example, in declining to pardon a woman convicted of a serious crime in Pennsylvania, he urged "that the just laws be not interrupted about the murderous woman, for the barbarity is crying. 'Tis a natural justice in the mixed state we are [here follows an undecipherable passage]. I cannot see how it is to be amended. . . ." <sup>36</sup> Justice, he thought, was an indispensable principle of civil government.

Rulers, thought Penn, not only must be both virtuous and just; they also should be loved. The prince who possessed both virtue and justice would be loved. The reason why princes should be loved was a practical one. Such a ruler would receive more willing service from his people: "certainly service upon inclination is like to go farther than obedience upon compulsion." Moreover, "ex-

<sup>30</sup> Penn to Evans, Aug. 9, 1703, Penn MSS—Granville Penn Book, p. 7.

<sup>31</sup> Penn to Holmes, Aug. 8, 1685, New York City Public Library MSS Division, Miscellaneous Papers.

<sup>32</sup> *Col. Rec.*, I, 598 (entry for April 3, 1700).

<sup>33</sup> *Ibid.*, I, 64, 68, 76-77, 77 (entries respectively for March 21 and 28; June 20; and July 4, 1683).

<sup>34</sup> *Ibid.*, p. 88 (entry for Oct. 26, 1683). Yet in some of the stages of his acrimonious controversies with Quarry and with David Lloyd, Penn exhibited a feeling so strong that the reader is tempted to suspect that what the Quaker wanted done was vengeance rather than evenhanded justice. See Penn to Logan, June 21, 1702; same to same, Jan. 22, 1702/3; and that written in 1702/3 but undated as to month and day, *Penn and Logan Correspondence*, I, 113, 162, 172.

<sup>35</sup> Penn to "Dear Friends," Oct. 21, 1687, Penn MSS, X, Dom. & Misc. Letters, p. 87. See Penn to Evans, Aug. 9, 1703, Penn MSS—Granville Penn Book, p. 7.

<sup>36</sup> Etting Collection—Early Quakers and the Penn Family, p. 6.

perience tells us that goodness raises a nobler passion in the soul and gives a better sense of duty than severity." He even went so far as to say "where a subject is more popular than the prince, the prince is in danger"; but in such a case the ruler himself is at fault, "for nobody has the like means, interest, or reason to be popular, as he." Rulers who seek to inspire fear rather than love in their subjects are mistaken in their policy: "It is an unaccountable thing that some princes incline rather to be feared than loved, when they see that fear does not oftener secure a prince against the dissatisfaction of his people than love makes a subject too many for such a prince."<sup>37</sup> The affection of the ruler's subjects guarantees him against the attacks of his neighbors: "Foreigners will find here no interpreters of their dividing language, nor matter (if they could) to work upon. For the point is gained: the people they would deal in are at their ease and cannot be bribed; and those that would can't deserve it."<sup>38</sup> This statement from the *Persuasive to Moderation*, published in 1686, is followed by a passage particularly interesting because of events preceding and following its utterance.

And to be loved at home is to be feared abroad. One follows necessarily the other. Where princes are driven to seek a foreign assistance, the issue either must be the ruin of the prince or the absolute subjection of the people, not without the hazard of becoming a province to the power of that neighbor that turns the scale. These consequences have on either hand an ill look, and should rebate extremes.

One is tempted to speculate upon what Penn had in mind when he wrote this passage. Could he have had reference to the relations which had existed between Charles II and his patron, Louis XIV? Or did he suspect that James II would seek aid from his friend, the French monarch? Be the facts as they may, Penn's words were prophetic of more than one crisis of subsequent European history. Whatever the value of popularity for rulers in the ages of despotism, benevolent and malevolent, there can hardly be any doubt that it is definitely an asset in these more democratic days.

William Penn denounced in a general way members of Parliament and provincial officeholders whose character and conduct did

<sup>37</sup> *Fruits of Solitude*, pp. 63-64, maxims 344, 346, 342, 343.

<sup>38</sup> *Works*, II, 739.



not match his own high standards, and on occasion he was willing to be specific and definite in his accusations. There is no record, however, that he ever expressed an unfavorable opinion of the character or doings of Charles II and James II, both of whom in public and private life fell quite below Penn's stated requirements for members of Parliament. The Quaker never undertook the role of Old Testament prophet—and perhaps the role of martyr—to denounce the notorious moral frailties of his royal friends; or if he did, no written evidence of such denunciations has come to the attention of the present writer. His letter to James upon the death of his elder brother referred to the deceased monarch as "wise and gracious."<sup>39</sup> Penn did criticize Louis XIV; but his objection was to the French monarch's persecution of the Protestants rather than to any other tyranny or any breach of public or private morality. The Deity had visited upon Louis a serious illness as punishment for his cruel treatment of the Huguenots, said Penn, for "God hates persecution."<sup>40</sup> Friendship, loyalty, or policy might account for the Quaker's silence regarding the lives of the royal Stuarts, for Penn indicated on occasion that he had no liking for some of the ways of the court,<sup>41</sup> and he was no coward. On the other hand, he had accepted the theory of the divine right of government, and he left to posterity no written suggestion of a political constitution for England more antiroyalist than a parliamentary monarchy. He might, therefore, have felt no reason to intimate that character or conduct must limit the hereditary succession to the throne.

Penn recognized the value of training and experience in officials, and he was willing to encourage capable public servants by adequate rewards. He had the opinion that there was too "little of an American understanding among those whose business it is to superintend" the administration of colonial affairs. Pointing out that "they who have never been in those parts of the world cannot, though otherwise oracles, comparably understand," he wished that those whose duty it was to administer the affairs of the col-

<sup>39</sup> Penn, "Address to King James II on his Accession to the Crown," dated Feb. 7, 1684, Hist Soc of Pa., *Memoirs*, Vol. III, Part I, 286.

<sup>40</sup> Penn to Turner, April 24, 1686, Dreer Collection—William Penn's Letters, p. 15.

<sup>41</sup> See his maxims on "A Private Life" in *Fruits of Solitude*, p. 67.

onies in England included "some of their former governors that served well." These "must needs supply the rest with that knowledge their experience has given them. . . ." He accused the English agents in America of discriminating between the rich and the poor, and he deplored the fact that by such officials "the people are extremely ill used on the one hand and the King on the other."<sup>42</sup> As early as 1686 he had suggested that if public officers were not adequately remunerated, they would abandon the service.<sup>43</sup> He included among his maxims the sentiment that officials who did their work well deserved "public marks of honor and profit."<sup>44</sup> They were worthy of encouragement by increased salaries. The service would be bettered, he thought, by making "all gratuities and perquisites punishable" and doubling the pay of competent men. If governmental officers were to meet his standards of ability and character,<sup>45</sup> they must receive adequate compensation for their services. Trained officers, worthy of good salaries, equipped with an understanding of the people and affairs under their government, were Penn's ideal for the service of the Crown; but it must be admitted that in his own appointments to provincial offices he frequently did not select agents whose qualifications matched this ideal.

If governors, like Plato's philosophers, could be virtuous, just, beloved of their subjects, and trained and understanding in their government, the state would be well managed, and there would be no dissension or "factiousness" among the governed. The Founder frequently inveighed against quarreling among his colonists, forgetful perhaps that philosopher-kings did not administer his realm. As a practical matter, however, a certain balance between contending influences within the state would, in his opinion, make easier the task of government. He phrased thus on one occasion his belief in the *concordia discordantium*: "And they are neither few nor of the weakest sort of men that have thought the concord of discords a firm basis for government to be built upon. The business is to tune them well, and that must be the skill of the

<sup>42</sup> Penn to Harley, circa 1701, Hist. MSS Com., 15th Report, App., Part IV, Portland MSS, p. 30.

<sup>43</sup> Penn to the Council, 1686, Dreer Collection—William Penn's Letters, p. 18.

<sup>44</sup> *Fruits of Solitude*, p. 67.

<sup>45</sup> Root, *op cit*, pp. 70-71.

musician."<sup>46</sup> This is not the *Divide et impera* so familiar to the politician and statesman, for in this pamphlet he was arguing for the "balance" which is one of the benefits secured to monarchy by toleration.<sup>47</sup> However favorable an equipollence might be, which would hold in fairly stable equilibrium opposing groups among the governed, Penn did not tolerate divisions among the rulers. He attacked from the outset the contentious colonial leaders, who were eventually to appear in his opinion almost too "governmentish."<sup>48</sup> He admonished the president and provincial council at Philadelphia in 1686 to strive for "love and peace," to be "peace makers," for he had heard of the shameful dissensions of "those in government, apt to fall out, a sorrow to me, a dishonor to the province, and a shame to themselves."<sup>49</sup> In arguing for a "balance" among the ruled and unity among the rulers, Penn was an opportunist rather than a philosopher. The "balance" would yield religious toleration; the unity would relieve him of the annoyance and embarrassment he was destined to suffer almost to the end of his relations with his "factious" colonists. To virtue, justice, popularity, training, and sympathy, Penn's ideal governors must unite willingness to co-operate and compromise. Men endowed with such qualities would be admirable administrators in a democratic state.

For citizens in an ideal society Penn insisted upon the fundamental rights of Englishmen. Perhaps first among these was the right to trial by jury. He had contended for this principle as early as the famous Penn-Mead trial in September, 1670. He wrote in

<sup>46</sup> "Persuasive to Moderation," *Works*, II, 741. Penn wrote to Evans many years later urging him to use his "utmost endeavors to qualify things and make the people easy under their differing persuasions and interests, both by wisdom and authority" Penn MSS—Granville Penn Book, p. 7.

<sup>47</sup> Penn introduced his point by what he thought an analogy from nature: "In nature we see all heat consumes, all cold kills; that three degrees of cold to two of heat allays the heat but introduces the contrary quality and overcools by a degree; but two degrees of cold to two of heat makes a poise in elements and a balance in nature. And in those families where the evenest hand is carried, the work is best done and the master is most revered."

<sup>48</sup> Penn to Thomas Lloyd, Simcock, Taylor, Harrison, and Turner, July 13 and Aug. 15, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 81. Penn besought his correspondents in this letter that they "draw not several ways, have no cabals apart, nor reserve from one another."

<sup>49</sup> Penn to the President and Provincial Council, Sept. 25, 1686, Dreer Collection—William Penn's Letters, p. 17.

*England's Great Interest*: "No man, according to the ancient laws of this realm, can be adjudged in matter of life, liberty, or estate, but it must be by the judgment of his peers, that is, twelve men of the neighborhood, commonly called a jury. . . ." <sup>50</sup> Passing from declarations of principle to active lawgiving, Penn was consistent upon this point. The charter granted to West Jersey in 1677 guaranteed to proprietors, freeholders, and inhabitants possession of life, liberties, privileges, and properties until after "a due trial and judgment passed by twelve good and lawful men of his neighborhood first had." <sup>51</sup> The Laws Agreed upon in England of 1682 provided in similar fashion that "all trials shall be by twelve men, and as near as may be, peers or equals, and of the neighborhood, and men without just exception." <sup>52</sup> No further definition was pronounced, nor was any solution offered for the problem of obtaining jurors who were "as near as may be, peers or equals" of the accused and yet were "men without just exception." This dilemma, of course, is only another example of the problem which confronts every moralist who professes belief in democracy.

One of Penn's grievances against the penal laws was that they provided punishment without trial by jury. He complained in *England's Great Interest* against the infringement of this right by two acts of the Long Parliament, one directed against the Quakers "and the other against dissenters in general . . . where persons are adjudged offenders and punishable without a jury." <sup>53</sup> He wrote more than twenty years later in protest against the practices of the vice-admiralty court. He found it "a thing extremely dissatisfactory to the King's subjects here in general" that bakers, butchers, smiths, and other such tradesmen should be obliged to sue in causes relating to vessels before the vice-admiralty judge and without a jury. <sup>54</sup>

He argued that the Pennsylvania Quakers had the right to serve on juries, even though they might not take oaths as those of other religious beliefs might do. It was "not to be thought," he wrote

<sup>50</sup> *Works*, II, 679

<sup>51</sup> Whitehead, *Documents*, I, 253; Thorpe, *op. cit.*, p. 2549. These concessions, says Osgood, expressed in "a crude way the yearning of the middle and lower classes of that day after proper guaranties of civil liberty." Osgood, *op. cit.*, p. 192.

<sup>52</sup> Thorpe, *op. cit.*, p. 3060; Hazard, *Annals of Pennsylvania*, p. 570.

<sup>53</sup> *Works*, II, 679.

<sup>54</sup> B.T.P., Vol. VI, Part I, G 40 (entry for Dec. 10, 1700).

to Logan, "that a colony and constitution of government made by and for Quakers would leave themselves and their lives and fortunes out of so essential a part of the government as juries. That there and here differed much, or we had never gone thither with our lives and substance to be as precarious in our security as not to be capable of being jurymen."<sup>55</sup>

Penn was solicitous that "speedy as well as thorough and impartial justice be done,"<sup>56</sup> but he was particularly desirous to protect the individual against unlawful court processes. The Concessions for West Jersey, for example, laid down in detail the procedure by which a person might be haled into court. Excepting "cases felonious and treasonable," none might be brought to trial without first having been furnished with a personal summons and allowed at least fourteen days to answer the suit. Six more articles or chapters of this document dealt with the safeguarding of individual rights in the courts of law, including jury trial, testimony in court, remission of sentence by persons bringing charges against the accused, and provision for public trials.<sup>57</sup> The fifth article of the Charter of 1701 for Pennsylvania established the right of the accused to the same privileges of witnesses and counsel in court as their prosecutors.<sup>58</sup> False imprisonment was treated both in Article XII of the Laws Agreed upon in England and in Article LXIII of the so-called Great Law.<sup>59</sup> According to these provisions "all persons wrongfully imprisoned . . . shall have double damages against the informer or prosecutor." Both instruments guaranteed bail to all accused persons "by sufficient sureties," excepting those charged with capital offenses "where the proof is evident, or the presumption is great." The Great Law made mandatory a quar-

<sup>55</sup> Penn MSS—Penn Family to Logan, I, 12. From time to time the Anglican party in Philadelphia and Penn's enemies in England had attempted to prohibit the Quakers from serving on juries. Such reports as the following, presented by Randolph, appear in the records of the Board of Trade: "Another person was tried, condemned, and executed in Mr. Penn's own province, the judge and jury not being sworn. . . ." B.T.P., VI, G 3, report received and read on March 24, 1700/1.

<sup>56</sup> Penn, "Instructions for Lieutenant Governor Blackwell," Nov. 25, 1689, Penn-Forbes Collection, I, 10.

<sup>57</sup> Thorpe, *op. cit.*, pp. 2549-2551, Whitehead, *Documents*, pp. 254-257.

<sup>58</sup> *Col. Rec.*, II, 59; Thorpe, *op. cit.*, p. 3079.

<sup>59</sup> Hazard, *Annals of Pennsylvania*, pp. 568-574, 619-634; Thorpe, *op. cit.*, pp. 3059-3063.

terly jail delivery in every county, "where imprisonment is not the punishment." Moderate fines were established by both documents and were intended to save men their "contentements, merchandise, or wainage, which is to say, the furniture of their calling and means of livelihood." The Laws Agreed upon in England required that court fees "in all cases shall be moderate, and settled by the provincial court and general assembly, and be hung up in a table in every respective court, and whosoever shall be convicted of taking more, shall pay twofold, and be dismissed his employment, one moiety of which shall go to the party wronged." The more surely to establish justice in the court procedure, the Laws provided "that all pleadings, processes, and records in court shall be short, and in English, and in an ordinary and plain character, that they may be understood, and justice speedily administered." These careful and detailed provisions for justice in judicial processes no doubt reflect the experiences of the Quakers in English courts of justice. They may also give further evidence of Penn's low opinion of colonial lawyers.<sup>60</sup>

While he believed in freedom of conscience and devoted his life more consistently to warfare against religious intolerance than to any other object, William Penn was no advocate of unqualified freedom of speech. He wrote to the provincial council in 1689, charging the members "to avoid factions and parties, whisperings and reportings. . . ." <sup>61</sup> He deplored in his *Fruits of Solitude* the baseless criticism of governors or rulers and urged both classes of magistrates so to conduct themselves as to merit no criticism. He thought that the people should refrain from captious condemnation of their government.<sup>62</sup> Article XXX of the Great Law pro-

<sup>60</sup> Penn expressed himself on this point during his second sojourn in America by referring to the "ignorance of these colonies having not the benefit of able lawyers to help them in their commerce and transfers of titles of lands, etc. . . ." Penn to the Board of Trade, Dec. 8, 1700, Letter Book, 1699-1701, pp. 49-50.

<sup>61</sup> Penn to the Provincial Council, Aug. 12, 1689, Dreer Collection—William Penn's Letters, p. 28.

<sup>62</sup> *Fruits of Solitude*, pp. 64-65. The pertinent maxims are the following: "It is certain princes ought to have great allowances made them for faults in government, since they see by other people's eyes and hear by their ears. . . ."; "And yet it were intolerable to be a minister of state if every body may be accuser and judge"; "Let therefore the false accuser no more escape an exemplary punishment than the guilty minister"; "For it profanes government to have the credit of the

vided that "if any person shall speak, write, or act anything tending to sedition or disturbance of the peace, and be duly convicted thereof, the party so offending shall, for every such offense, be fined according to the nature and circumstances of the fact, provided it be not less than twenty shillings." Article XXXI was even more stringent: punishment was therein ordained for those that "speak slightly, or carry themselves abusively against any magistrate, or person in office . . . always provided it be not less than twenty shillings, or ten days' imprisonment at hard labor. . . ." <sup>63</sup> The taking of oaths, of course, was contrary to the Quaker profession and was to be suppressed. Blasphemy was forbidden. Among the titles of the laws passed at Chester, December 4, 1682, were the following: "Against Swearing by God, Christ, or Jesus"; "Against Swearing by any other Thing or Name"; "Against Speaking Profanely of God, Christ, Spirit, or Scriptures"; "Against Cursing." <sup>64</sup> The Quaker legislators, moreover, penalized "reporters, defamers, and spreaders of false news" and "clamorous persons, scolders and railers." It is not, therefore, surprising to read the judgment of the historian of Delaware County, who, writing of the year 1689, said: "The freedom of speech was very much restricted in these early times." <sup>65</sup> Plain speaking, to Penn in Pennsylvania, meant neither abuse, nor slander, nor blasphemy, nor even irresponsible criticism of governmental officials.

Early in his first sojourn in America the Founder and the council sat in judgment upon Nicholas Moore, president of the Free Society of Traders, for what would seem to have been a mere expression of opinion. Moore was accused of having uttered in a public house such charges against the

proceedings of the governor, provincial council, and assembly as that they have this day broken the charter, and therefore all that you do will come to nothing, and that hundreds in England will curse you

leading men in it subject to vulgar censure, which is often ill-grounded." To have a government not "subject to vulgar censure" could mean nothing if not censorship of the press, of speech, or of both.

<sup>63</sup> Hazard, *Annals of Pennsylvania*, p. 626

<sup>64</sup> *Votes and Proceedings of the House of Representatives*, Vol. I, Part I, p. 6.

<sup>65</sup> George Smith, *History of Delaware County*, p. 174, writes: "Prosecutions for slandering the officers of the Provincial Government, or the Justices of the Court, were of frequent occurrence." In most cases, he says, such slander was uttered by irresponsible persons.

for what you have done, and their children after them, and that you may hereafter be impeached for treason for what you do. . . .

The accused maintained that he had spoken "rather by query than assertion, and if he had said as it was represented, he had been to blame indeed, but he said that he spake not with such an intent. . . ." The judge found his discourse "unreasonable and imprudent" and admonished him not to repeat the offense.<sup>66</sup> In 1700 Penn was willing to suggest that the governor of a neighboring colony restrain a printer who had published offensive material against both the government of Pennsylvania and the Quaker faith. He thus wrote to Bellomont: "I hear the [or "your"?] printer has printed an almanac for one David Leeds [?], a quondam Quaker, with reflections upon both our government and persuasion, and I am sure Lord Bellomont will not endure such ill manners and unneighborliness to pass upon persuasion and government. . . ." <sup>67</sup>

There are still advocates of freedom who consider the legal prohibition upon profanity, blasphemy, obscenity, and slander no abridgment of the fundamental right of free speech. Modern journalistic defenders of freedom of the press, however, would no doubt denounce strenuously such a restriction as that imposed upon the incautious Moore, not to mention the legislation against "spreaders of false news." Penn's objection to complete freedom of speech contrasts strangely with his advanced position concerning other human liberties. His letter to Bellomont about the printer of the offensive almanac would suggest that the Founder did not know "that Truth is strong next to the Almighty" and that "she needs no policies, no stratagems, nor licensings to make her victorious. . . ." <sup>68</sup> Penn once wrote a religious polemic under the title *Naked Truth Needs No Shift*, but on the issue of a free journalism John Milton was the greater democrat.

Though on one occasion he declined to receive a communica-

<sup>66</sup> *Col. Rec.*, I, 58-59 (entry for March 12, 1683).

<sup>67</sup> Penn to Bellomont, Dec. 9, 1700, Letter Book, 1699-1701, p. 46.

<sup>68</sup> Milton, *Areopagitica*, p. 52 Penn either did not know or found no validity in Milton's statement of the function of the press. "This I know, that errors in a good government and in a bad are equally almost incident; for what magistrate may not be misinformed, and much the sooner, if liberty of printing be reduced into the power of a few?" *Ibid.*, p. 58.



tion from the assembly ostensibly because of the failure of the petitioners properly to sign the paper,<sup>69</sup> Penn was a consistent believer in the right of petition. He made frequent use of this weapon in his long battle for religious toleration, and he did not deny to his colonists their right to petition him.<sup>70</sup> In fact, he invited such expressions from them as a means of effecting remedies in the practical working of his government.

Penn believed that laws made by men, whether constitutional or merely statutory in nature, were subject to human amendment. It has been noted earlier that he considered "fundamental laws" inalterable "by a representative"; but such laws were "the eternal law," the *jus naturale*. The legislation of man was of a subordinate order. The First Frame, drawn up with so much labor, consultation, and revision, was subject to amendment. The twenty-third article of that instrument provided: "That no act, law or ordinance whatsoever, shall, at any time hereafter, be made or done by the governor of this province, his heirs or assigns, or by the freemen in the provincial council, or the general assembly, to alter, change, or diminish the form, or effect, of this charter, or any part, or clause thereof, without the consent of the governor, his heirs, or assigns, and six parts of seven of the said freemen in provincial council and general assembly." The First Frame was supplanted within a year.<sup>71</sup> The twenty-fourth article in the succeeding constitutional document, the Frame of 1683, contained in almost the same language an amending clause. The verbal changes involved the inclusion of the term "proprietary" with the term "governor," the addition of the so-called "territories" or Lower Counties to the area covered by the instrument, and the interpolation of the phrase "contrary to the true intent and meaning thereof" to describe the suppositive alteration of the document. The Frame of 1696, granted by Markham, Penn's deputy, but

<sup>69</sup> *Col. Rec.*, II, 55-56 (entry for Oct. 28, 1701)

<sup>70</sup> Penn wrote to Thomas Lloyd and others on Sept. 11, 1691, that "if petitions were rejected, it was not well..." Dreer Collection—William Penn's Letters, p. 38.

<sup>71</sup> The text of the Frames of 1682 and of 1683 may be found in Thorpe, *op. cit.*, pp. 3052-3059, 3064-3069. The story of the development of the Frame of 1683 from the First Frame may be read in *Col. Rec.*, I, 58 ff. (entries for March 10, 13, 15, 20, 21, 26, 27, 30, and 31, and April 2, 1683). For secondary accounts see Shepherd, *op. cit.*, pp. 243 ff.; Osgood, *op. cit.*, pp. 260-261; Channing, *op. cit.*, pp. 120-121.

neither approved nor recognized by the proprietor, contained an amending clause in terms identical with those of the First Frame, except that the territories were included and the qualifying interpolation characteristic of the Second Frame was in this third document also. Markham's instrument did not require the consent of the proprietor to be effective, but it did recognize the latter's right to terminate the Frame. It provided that the act was "to continue, and be in force, until the said proprietary shall signify his pleasure to the contrary, by some instrument, under his hand and seal, in that behalf." This provision gave the Founder power to abolish the entire instrument; but its force was qualified by the succeeding guarantee to the people of "the rights, privileges and immunities, which the said proprietary, for himself, his heirs, and assigns, did formerly grant, or which of right belong unto them, the said inhabitants, by virtue of any law, charter or grants whatsoever, any thing herein contained to the contrary notwithstanding." The famous Charter of Privileges of 1701, to which Penn acceded with reluctance, contained in the eighth article an amending clause in nearly the same words as those of the First Frame. This clause did not mention the governor or the proprietor, the council or the assembly as those who might alter the Charter. It simply forbade any alteration, change, or diminution of "the form or effect" of the Charter, "or of any part or clause therein, contrary to the true intent and meaning thereof, without the consent of the governor for the time being, and six parts of seven of the assembly met." Thus the proprietor might not necessarily have any voice in amendment. The council was not mentioned, for the Charter of 1701 had abolished that body as part of the legislative, and the territories were not included, for it had become clear that there would be a separation of the province from the Lower Counties. The procedure outlined in these constitutional documents was obviously not democratic, but it illustrates Penn's willingness to permit amendment. The Charter of 1701 had fundamentally altered his original constitution. Yet, though he agreed unwillingly to the change, he had kept his word to the council implied in his address of April 1, 1700: "If in the constitution by charter there be anything that jars, alter

it. . . ." <sup>72</sup> As Professor Wright has recently stated, Penn's Frame contained "the first amending clause in American history." <sup>73</sup>

Penn's Quakerism influenced his theories about participation in politics. <sup>74</sup> He advised his children, for example, not to concern themselves with government, "unless it were upon your own principles, and then the less the better, unless God require it from you." He recalled for their edification the proverb *Bene qui latuit, bene vixit*. He urged, with unnecessary repetition, that they "never meddle with other folks' business, and less with the public," that they "meddle not with the public, neither business nor money," that they "meddle not with government; never speak of it. . . ." <sup>75</sup> He incorporated among his maxims the sentiment that "a private life is to be preferred; the honor and gain of public posts bearing no proportion with the comfort of it. The one is free and quiet, the other servile and noisy." <sup>76</sup> The servility and noise, however, must be endured under some circumstances, for it was an obligation to take part in public affairs, as he told his children, if "required . . . by the Lord in a testimony for his name and truth." Penn placed his own participation in politics upon high grounds, duty and principle. "I must own," he once declared, "it is my aversion at this time to meddle with public matters, and yet my duty to the public will not let me be silent. They that move by principles must not regard times nor factions, but what is just and what is honorable; and that no man ought to

<sup>72</sup> Hist. Soc. of Pa., *Memoirs*, Vol. II, Part II, p. 188. For the account of the adoption of this charter, see *Col. Rec.*, II, 35-60 (entries for Sept. 15, 16, 20, 26, 29, and 30, Oct. 7, 10, 14, 23, and 28, 1701).

<sup>73</sup> Wright, "The Early History of Written Constitutions in America" (No. XII, in *Essays in History and Political Theory in Honor of Charles Howard McIlwain*), p. 357 The amending clauses to which reference has been made in the text are to be found in the various Frames in Thorpe, *op. cit.*, pp. 3059, 3068, 3076, 3079.

<sup>74</sup> Penn's theological tract, *A Key, Opening the Way to Every Capacity*, contains a chapter on "Civil Government." Penn denied in this work that the Quakers were anarchists or enemies of all government, for "no people give the magistrates less trouble, or cause that charge or burden to sit lighter upon their shoulders." He went on to ask "what people is more industrious under government, or pay their taxes better to it than they [the Quakers] do?" *Works*, II, 788. Sharpless, *A Quaker Experiment*, Part I, pp. 44-46, says of the Friends: "Their ruling power in relation to government was their conscience divinely instructed." This principle might call for "obedience, for reverence, for submission," but it might also require fanatical and even martyrlike resistance to governmental authority.

<sup>75</sup> *Works*, I, 900, 907.

<sup>76</sup> *Fruits of Solitude*, p. 67, maxim 370.

scruple, nor no time or interest to contest." <sup>77</sup> Public service was to be shunned except as a bounden duty whereunto one must feel duly and clearly called.

On a few occasions Penn went even further in his advocacy of the idea that ordinarily the religious man should abstain from political activity. He marshaled Scriptural passages in the letter to his children just cited to prove that submissiveness to government was a virtue to be emulated. Later he wrote a series of maxims under the title of "The Conformist," in which he asserted that conformity "is at least a civil virtue" and that "it is reasonable to concur where conscience does not forbid a compliance." <sup>78</sup> Such doctrine sounds strange from an outstanding and uncompromising opponent of the English penal laws, who had in youth been imprisoned more than once for his resistance to Acts of Parliament. Penn was then himself a notable nonconformist. Later in life, when he became identified with governmental authority in his own person, there was perforce a change in point of view. The attitude resulting from this change is illustrated in many of the Founder's letters to Logan, in which he dealt in emphatic terms with his "factious and unworthy" colonists.<sup>79</sup> *Finem respice*.

Whatever Penn may have said to discourage the religious idealist from actively participating in the political concerns of the world, his Frame of Government for Pennsylvania encouraged "freemen" to take part in government, for to such persons belonged the rights of suffrage and the holding of office. Moreover, as Wright has noted, the sixteenth article of the First Frame contained at least the germ of the idea of a constitutional convention. Perhaps it may even be said to approach the idealistic picture drawn by historians of the Teutonic school, who have described the primary assemblies in the ancient German forests as the source of modern democracy. This article provided that "for the establishment of the government and laws of this province, and to the end there may be an universal satisfaction in the laying of the fundamentals thereof: the general assembly shall, or may, for the

<sup>77</sup> "Good Advice to the Church of England," *Works*, II, 749.

<sup>78</sup> *Fruits of Solitude*, pp. 122-123, maxims 249-253.

<sup>79</sup> The phrase quoted is from Penn's letter to Logan, Sept. 14, 1705, Penn MSS—Penn Family to Logan, I, 25.

first year, consist of all the freemen of and in the said province. . . ." <sup>80</sup> The sixty-fifth article of the Great Law defined as freemen all inhabitants of the province and territories who had purchased and settled one hundred acres of land and the heirs and assigns of such persons; all who had paid their passage and taken up and settled the same amount of land at one penny an acre; all former servants or bondsmen, "free by services," who had taken up and settled fifty acres of land; and "every inhabitant, artificer, or other resident . . . that pay scot and lot to the governor." After having made in writing a qualifying attestation of "fidelity and lawful obedience" to Penn, such persons were given the suffrage. <sup>81</sup> These qualifications were more liberal than similar requirements set up in the contemporary colonies of Virginia and Massachusetts Bay. <sup>82</sup>

Penn thought that elections must be supervised and guarded to insure the choice of fit candidates to office. He incorporated in the Concessions and Agreements for West Jersey a provision against the buying of votes in elections of members to the general assembly. The gift, bestowal, or promise, even indirectly, of "any meat, drink, money, or money's worth" to a voter was to carry with it the penalty of ineligibility for such election. <sup>83</sup> Bribery in the electoral procedure was penalized by the third article of the Laws Agreed upon in England, and the practice, though not made criminal, was decried in the sixty-sixth article of the Great Law. <sup>84</sup> Neither the author of the change nor the reason therefor is known. It is clear that Penn believed that in this particular, as in others, the democratic way of life must be protected against the unsocial.

Judges, treasurers, and masters of the rolls were to be appointed under both the First and the Second Frames by the governor or his deputy from lists of two names for each office submitted to him

<sup>80</sup> Thorpe, *op. cit.*, p. 3058. See Wright, *op. cit.*, p. 357, to which the author is indebted for this interesting suggestion, as well as for that to which reference has been made in note 75 of this chapter. Compare the third constitution in "Fundamentall Constitutions," *The Pennsylvania Magazine of History and Biography*, XX (1896), 287-288.

<sup>81</sup> Hazard, *Annals of Pennsylvania*, pp. 632-633. This provision enlarges somewhat upon the second article of the Laws Agreed upon in England. See Thorpe, *op. cit.*, p. 3060.

<sup>82</sup> Channing, *op. cit.*, p. 284, note 2; Jernegan, *op. cit.*, pp. 167-168; Andrews, *Colonial Self-Government*, pp. 208-209.

<sup>83</sup> Whitehead, *Documents*, I, 263, chap. xxxiii.

<sup>84</sup> Hazard, *Annals of Pennsylvania*, pp. 569, 633; Thorpe, *op. cit.*, p. 3060.

by the council. Similarly, sheriffs, justices of the peace, and coroners were to be appointed from lists made up by the general assembly containing a "double number of persons" for each office.<sup>85</sup> Unwise legislation concerning the naming of judges was one of the causes of the controversy which arose in the administration of Penn's deputy, Blackwell, when the latter was deprived of the appointing power. The right to name judges was restored to the governor in 1690, and in the law of 1701 he retained that function.<sup>86</sup> Plainly, Penn did not believe in an elective judiciary or in elective executive officers. In this matter, too, the Founder's democracy was tempered by the caution of the conservative.

William Penn believed, with some limitations, that legislation was properly the function of elected and representative assemblies. He declared in *England's Great Interest* that one of the fundamental rights of Englishmen, their "birthright and inheritance, is legislation, or the power of making laws." The function of law-making, he argued somewhat imaginatively, had been accomplished before the reign of Henry III by "the freemen of England . . . in their own persons"; but increasing numbers had made such action impracticable, and the representative legislature "was first pitched upon as an expedient, both to maintain the common right and to avoid the confusion of those mighty numbers."<sup>87</sup> Penn believed that men should be governed by "rules of their own making." This principle was the ideal of the Pennsylvanians during the Founder's participation in their political affairs. After his second return to England he frequently expressed resentment at the course of events in his province, where the colonists, in quite democratic fashion, seemed much more concerned with their own interests and ambitions than with the desires or the property of the Founder. Age, experience, and disappointment had worked a transformation in the author of the preface to the First Frame.

One of the limitations in Penn's conception of the purposes

<sup>85</sup> Thorpe, *op. cit.*, pp. 3058, 3067. See *Col. Rec.*, I, 69 (entry for March 29, 1683). See also Vulliamy, *William Penn*, p. 162.

<sup>86</sup> Osgood, *op. cit.*, pp. 286-287.

<sup>87</sup> *Works*, II, 679. See Harrington, *The Commonwealth of Oceana*, p. 141: "Wherefore, go which way you will, it should seem, that . . . without a representative of the people, your commonwealth consisting of an whole nation, can never avoid falling either into oligarchy or confusion."

and proper functions of legislative assemblies was his denial of what he once described as "a downright Parliamentary omnipotency." Though he once called the English Parliament "the people's last resort for right," he did not consider the legislature supreme.<sup>88</sup> He thought it limited, as has been noted earlier, by a higher and more fundamental law than any which it had the power to enact. His rationalization of the royal dispensing power to establish religious toleration was based on this concept of a "superior" or "eternal" law. His whole argument against penal laws assumed as a legal basis that such acts of Parliament violated fundamental rights guaranteed to Englishmen by their heritage of the common law and by the great documents which formed the ancient English constitution. The legislative must be subordinate to and dependent upon the safeguards of this constitution, which he identified with the divine law of justice, the *jus naturale*.

Penn believed, furthermore, in the delegation theory. On this subject he developed a clearly reasoned argument in *England's Present Interest*. Legislators, he maintained, are unable to alter the fundamental rights of their constituents because they are the mere creatures of those whose rights are at issue. "Every representative may be called the creature of the people because the people make them and to them they owe their being." Members of a legislature were no more than trustees for their constituents. "What spring," he demanded, "ever rose higher than its head? The representative is at best but a true copy, an exemplification; the free people are the original. . . ." These arguments he supported by references to English history.<sup>89</sup> In the earliest-known complete draft of the First Frame appears a provision based definitely on the delegation theory. It was thereby required of deputies in the assembly that they consult "the mind of their principals or tribes that depute to them as to the passage or abrogation of each law." Every member of the assembly must bring written instructions from his constituents and would become ineligible to hold his office if he violated them, "unless the people, sensible of

<sup>88</sup> Penn to Harley, Aug. 27, 1701, Hist. MSS Com., 15th Report, App. Part IV, Portland MSS, pp. 19-21. The passage is in a protest against the vacation of the proprietary charters by Parliament.

<sup>89</sup> Works, I, 682-684.

his repentance, shall forgive and choose him.”<sup>90</sup> It would be difficult to bind more completely the representatives of the people or to limit more strictly their discretion in legislative affairs. Neither the initiative nor the referendum would guarantee more surely that only legislation supported by the popular majority could be passed. The direct responsibility of the legislators to their constituents contemplated in this document is nowhere realized in the United States. In England it is perhaps approached by the flexible ministerial and parliamentary system. Penn’s theory, set forth in an age just emerging from absolutism, approximated too closely the democratic ideal to be applicable today in what are commonly regarded as the world’s most conspicuous political democracies.

The legislature which Penn actually designed for Pennsylvania under the First Frame was cumbersome, unworkable, and, for modern times, undemocratic.<sup>91</sup> It consisted of the governor and an elective provincial council and general assembly. The council was to be made up of seventy-two members chosen, after the first council, for three years; one-third of the membership was to go out of office each year, replaced for the ensuing term of three years by new men. The assembly was to be composed of two hundred members, elected annually, and was to be enlarged, as the country grew in population, to a maximum of five hundred. The voters were to be the freemen of the province. When the proprietor was in the colony, he presided over the deliberations of the council; when he was absent, the deputy-governor performed this duty. The governor or proprietor had the right to pass on all measures coming before the council; and his vote, the so-called “treble voice,” counted three times as heavily as that of any other member. The results of the first election showed the impracticability of the large membership set for both houses, and the total membership of the two was then set at seventy-two, of whom eighteen were to be councilors.<sup>92</sup> The Frame of 1683, permitting the expansion of

<sup>90</sup> *The Pennsylvania Magazine of History and Biography*, XX (1896), 288-289.

<sup>91</sup> Rigg, “Penn,” *Dictionary of National Biography*, XV, 762, says that “the fate of Penn’s constitution only points the moral of the futility of such theoretic devices.”

<sup>92</sup> *Col. Rec.*, I, 58 (entry for March 10, 1682/3).



the legislature to seventy-two members for the provincial council and two hundred for the assembly, established eighteen as the membership of the council and thirty-six for the assembly, "being six out of each county, men of most note for their virtue, wisdom and ability."<sup>93</sup> The gubernatorial "treble voice" was abandoned in the Second Frame, though the proprietor or governor was to preside over the deliberations of the council. In neither charter was there any provision for a gubernatorial veto. The twenty-third article of the earlier document and the twenty-fourth of the later, provided somewhat indirectly that by withholding his consent the governor might prevent the alteration in form or effect of the charter or any part or clause thereof.<sup>94</sup> In somewhat similar language the thirty-ninth article of the Laws Agreed upon in England protected the governor's power with respect to those enactments.<sup>95</sup> Penn's view of the true functions of the legislative is indicated in the fourth of these laws, which definitely limited the governor by providing that no tax might be levied or public money raised except by law. The Third Frame, granted by Markham, further reduced the membership in the legislature to two councilors and four assemblymen from each county, duly elected by the freemen thereof. Among other changes this document provided that bills prepared and proposed by the two houses, "or such of them, as the governor, with the advice of the council, shall, in open assembly, declare his assent unto, shall be the laws of this province and territories thereof. . . ." <sup>96</sup> If the governor had not the veto power before this Frame, such a provision would seem to imply that function.<sup>97</sup> The first two Frames left the governor with relatively weak constitutional powers in legislation and made of the council the most prominent element in the legislative.<sup>98</sup> There was, obvi-

<sup>93</sup> Thorpe, *op. cit.*, pp. 3064, 3066-3067.

<sup>94</sup> *Ibid.*, pp. 3059, 3068. See also *Col. Rec.*, I, 72 (entry for April 2, 1683).

<sup>95</sup> Thorpe, *op. cit.*, p. 3063. This article reads, in language essentially similar to that of the two Frames: "That there shall be, at no time, any alteration of any of these laws, without the consent of the governor, his heirs, or assigns, and six parts of seven of the freemen, met in provincial council and general assembly." Compare p 59 above.

<sup>96</sup> *Ibid.*, p. 3075.

<sup>97</sup> Osgood, *op. cit.*, II, 261, says "it is not clear that the lieutenant-governor—the proprietor's appointee—enjoyed the right of veto."

<sup>98</sup> *Ibid.*, p. 259

ously, nothing to prevent the winsome and persuasive proprietor from influencing powerfully the other members of the council through sheer force of character or charm of personality.

The legislature set up in Pennsylvania under both the Frame of 1682 and that of 1683 resembled in its functions the legislative proposed by James Harrington for the ideal commonwealth of Oceana. The council, in Penn's plan, as in that of Harrington, was vested with the "proposing" power, and the assembly was charged with the "resolving" power. The latter body might amend bills prepared by the governor and council for consideration by the members, but the assemblymen were not empowered to originate laws. Their duty, ordinarily, was to "give their affirmative or negative, which to them seemeth best." This constitution of the legislative, with other circumstances, has strongly suggested to students that Penn derived some of his ideas from Harrington.<sup>99</sup> The denial to the assembly of the power to originate bills was resented by that body, and in the Frame of 1696 the provision was made that laws might be proposed by either house of the legislature.<sup>100</sup> The proprietor refused to recognize this innovation. He was, however, eventually obliged to yield, and in the Charter of Privileges of 1701 even the bicameral principle was abandoned. A legislative was organized to consist of but one house, the assembly, made up of four members from each county. This body, without participation from the council, was to have the power to "prepare bills in order to pass into laws" and to constitute, with the governor, the legislature of the province.<sup>101</sup> Penn disclaimed responsibility for this charter. He wrote angrily to Logan in 1705 that "that charter was never altered by me, but by the suggestions of . . . David Lloyd, to my regrets, as my letters before and my conduct after plainly shewed, and truly, they [the colonists] have not prospered since." He added that the objectionable features of the Charter of 1701 were the discarding of the bicameral system (with the division of functions between a "proposing" and a "resolving" body) and the foolish abandonment by the legislature

<sup>99</sup> See Russell-Smith, *Harrington and His Oceana*, pp. 175-180. See also Ewing, "The Constitution and the Empire," *The Cambridge History of the British Empire*, I, 609-610. Compare the seventh constitution in "Fundamentall Constitutions," *The Pennsylvania Magazine of History and Biography*, XX (1896), 289-290.

<sup>100</sup> Thorpe, *op. cit.*, p. 3075.

<sup>101</sup> *Ibid.*, p. 3078.

of the custom of voting by ballot on certain matters which came before it.<sup>102</sup> Penn believed that legislation should proceed under a system of specialized functions and by formal ballot. Such procedure would slow up the legislative process. These limitations also qualified his views of the representative system. Both these ideas and his acceptance of the delegation theory bespeak his belief in a law superior to the power of mere human legislatures.

If his writings do not show him to have been a consistent libertarian, no more do they demonstrate that Penn was a consistent democrat.<sup>103</sup> He manifested in his religious works the proper Christian and Quaker respect for the human individual;<sup>104</sup> but he sometimes—and particularly in his later letters to Logan—expressed an almost Hamiltonian disdain for and detestation of the mob. Some of these undemocratic sentiments are no doubt to be traced to the natural bitterness of disappointment and financial ruin which overtook the Founder during the closing decade of his active life; but even before he had set foot upon the soil of his province, he realized that to rule the people in a frontier settlement would require something more than the milk of human kindness. He wrote in the fall of 1681 to “Cosen Markham,” his appointed deputy in Pennsylvania, recommending that the latter “strive to give content to the planters, and with meekness and sweetness, mixed with authority, carry it so as thou mayst honor me as well as thyself. . . .”<sup>105</sup> During his first visit to America Penn began to be distressed at the difficulties that arose among the people there. He sent a set of instructions to Robert Turner in 1684 dealing with the people of West Jersey, in which he expressed pain that he had been misrepresented and “beset with

<sup>102</sup> Penn to Logan, May 10, 1705, *Penn and Logan Correspondence*, II, 18.

<sup>103</sup> Andrews, *The Colonial Period of American History*, III, 288, 303, says of Penn that he “was not a believer in democracy any more than were the other idealists of the century” and that he was “aristocratic by instinct.”

<sup>104</sup> Proud, *The History of Pennsylvania*, I, 48, quotes Barclay on the Quaker attitude toward the relations existing between superior and inferior and the custom of that sect as to the “disuse” of titles, compliments, etc. “I would not have any judge,” wrote Barclay, “that hereby we intend to destroy the mutual relation that either is betwixt prince and people, master and servant, parents and children: nay, not at all; we shall evidence that our principle in these things hath no such tendency, and that these natural relations are rather better established than any ways hurt by it.”

<sup>105</sup> Penn to Markham, Oct. 18, 1681, Dreer Collection—William Penn’s Letters, p. 5.

untrue and unkind reflections as one not keeping my word with the people." He desired that the assembly in that colony would "do me that justice as to purge me from that unworthy scandal, whispered and fomented by those that cannot have their lusts on them or me."<sup>106</sup>

After his first return to England the colonial dissensions became more and more annoying to Penn. These "scurvy quarrels," as he termed them in his well-known letter to James Harrison,<sup>107</sup> were caused largely by the clumsiness of the governmental machinery in Pennsylvania, as well as by jealousies and rivalries among the colonists. Penn himself was to no small degree responsible for the inadequacy of the political arrangements.<sup>108</sup> Nevertheless, excepting the conciliatory attitude which he assumed on the eve of the revision of the Frame,<sup>109</sup> he expressed no other opinion of the malcontents than that they were unruly and "factious." Instead of showing a desire to adjust the government the better to suit colonial needs, his letters and instructions had the tone of a benevolent father, still patient but quite saddened by the disobedience of his children. Sometimes this grieved tone gave place to more garrulous indignation. He complained, for example, to Harrison that "there is nothing but good said of the place [Pennsylvania], and little that's good said of the people." He begged his correspondent to join with other leading Friends in the province to "see what is wrong, and in God's name exhort,

<sup>106</sup> Penn to Turner, March 31, 1684, Penn Papers, J. F. Fisher's Copies, p. 5. Turner was commissioned by Penn to treat with the general assembly of West Jersey with regard "to several things of moment relating to the greater union and good understanding of this and that government."

<sup>107</sup> Penn to Harrison, Nov. 20, 1686, Penn MSS, X, Dom & Misc. Letters, p. 31.

<sup>108</sup> Shepherd, *op. cit.*, pp. 269-270, writes: "It cannot be denied that Penn was somewhat unsteady in his principles of government, as well as in his methods of carrying them out. The chief cause may be traced to the conditions incident to a newly established colony, the government of which rested on partly untried principles, and the inhabitants of which enjoyed a degree of liberty not granted to its immediate neighbors." See Osgood, *op. cit.*, pp. 261-269, Andrews, *Colonial Self-Government*, pp. 196-200; and Andrews, *The Colonial Period of American History*, III, 303-304; Channing, *op. cit.*, pp. 121-126.

<sup>109</sup> "Speech of W. Penn to the Provincial Council of Pennsylvania," Hist. Soc. of Pa., *Memoirs*, Vol. II, Part II, pp. 187-188. An example of Penn's interpretation of the discontent in Pennsylvania may be seen in his letter of Aug. 6, 1689, to the provincial council at Philadelphia. Sharpless, *A Quaker Experiment*, Part I, p. 84, says "He [Penn] was displeased with the too great tendencies to license, as he deemed them, but wisely accepted the inevitable...."

and in the King's name and mine as his governor, charge at peril that a better course be taken to end or prevent . . . such disputes." In the same communication he referred to one J. Skeen and urged Harrison to "visit him in my name, with this flea in his ear, that I shall bring authority with me to examine him and his proceedings, and that country will be too hot to hold him if he mend not his manners." It was, thought Penn, "a sad thing a majesty of truth and natural wisdom is not held up against such whiffers. . . ." <sup>110</sup> Two months later the Founder expressed sorrow that his letters to the council were "so slightly regarded" and that the Frame to which he had "with a religious mind consecrated" his pains was "not valued, understood or kept to." The Charter, he declared, "is over and over again forfeited, if I would take advantage at it" He asserted: "I shall keep the power and privileges I have left to the pitch and recover the rest as their misbehaviors shall forfeit them back into my hands, for I see I am to let them know that 'tis yet in my power to make them need me as much as I do their supply." The disillusioned proprietor concluded by announcing that unless he were treated more generously in a financial way by the Pennsylvanians, he would not go again with his family to "that province to fill up and discharge a public station, and so add more wrongs to my children." These words, he said, were "no anger, though I am grieved, but a cool and resolved thought." <sup>111</sup> Penn wrote to an unknown addressee, presumably the council, in 1687, indignantly claiming his dues, rents, supplies, and damages. "I will have the damage," he asserted, "to extremity or reënter my land with an high hand, and that the best lawyers here assure me I may do." <sup>112</sup>

Perhaps as a result of his unhappy experiences in America he set forth in his *Persuasive to Moderation* an unflattering opinion of the mob. He found the crowd cowardly, susceptible to emotion, and stupid. "Mankind by nature," he wrote, "fears power and melts at goodness." Moreover, "multitudes cannot plot; they are too many and have not conduct for it; they move by another

<sup>110</sup> Penn to Harrison, Nov. 20, 1686, Penn MSS, X, Dom. & Misc. Letters, p. 31.

<sup>111</sup> Same to same, Jan. 28, 1686/7, Penn MSS, X, Dom. & Misc. Letters, p. 32.

<sup>112</sup> Penn to — Sept. 17, 1687, Penn MSS, X, Dom. & Misc. Letters, p. 86.  
No addressee is named.

spring. Safety is the pretence of their leaders."<sup>113</sup> Elsewhere he contrasted the works of God with those of men: "God's works declare his power, wisdom, and goodness; but man's works, for the most part, his pride, folly, and excess. The one is for use; the other, chiefly, for ostentation and lust."<sup>114</sup>

After the Founder's final return to England he seems to have become more autocratic in his dealings both with other governmental agents in the colony and with the colonists themselves. He insisted more vigorously than ever upon his legal rights. He engaged in a controversy, for example, with Colonel Quarry, judge of the vice-admiralty court, about the appointment of water-bailiffs. The proprietor thought it strange that his right to appoint officers should be questioned, since the royal Charter had granted to him "the royalties of both land and water."<sup>115</sup> Sometimes his letters to Logan manifest the greatest displeasure with the colonists and the assembly. He once referred to "that foolish covetousness of theirs" and feared that "laws will be made here [in England] to rule us there if we are so stout and stingy; but I will say no more of this, save if we had done like men we had not been now in the precarious circumstances we are. . . ." <sup>116</sup> Later he wrote of the colonists as "the foolish and unthankful people."<sup>117</sup> Some months afterward he deplored the tendency of the provincials to quote his own charter against him. "The charter I granted," he declared, "was intended to shelter them [the colonists] against a violent or arbitrary governor imposed upon us; but that they should turn it against me, that intended their security thereby, has something very unworthy and provoking in it. . . ." Penn was at this time, however, in quite a kindly mood, for he added: "But as a father does not use to knock his children on the head when they do amiss, so I had much rather they were corrected and better instructed than treated to the rigor of their deservings."<sup>118</sup>

The charter which Penn had granted on October 25, 1701, to the city of Philadelphia marks the distance which the Founder

<sup>113</sup> *Works*, II, 738-739

<sup>114</sup> *Fruits of Solitude*, p. 50, maxim 222.

<sup>115</sup> B.T.P., Vol. VI, Part I, G 40 (entry for Oct. 10, 1700). For a secondary account of the difficulties arising between Penn and Quarry, see Root, *op. cit.*, pp. 97-115.

<sup>116</sup> Penn to Logan, Aug. 27, 1703, *Penn and Logan Correspondence*, I, 211.

<sup>117</sup> Same to same, Sept. 16, 1704, *Logan Papers*, I, 51.

<sup>118</sup> Same to same, Feb. 12, 1704/5, Penn MSS—Penn Family to Logan, I, 22.

had traveled in his political philosophy in the score of years since he drafted the "Fundamentall Constitutions." The ninth constitution of the earlier document, the rejected preliminary draft of the First Frame, provided for "all towns and cities where magistrates of any degree are thought necessary, whether they be mayors, bailiffs, provosts, sheriffs, constables, etc., or by any other name styled, they shall be chosen by the inhabitants thereof that are housekeepers, that receive no alms to their maintenance. . . ." <sup>119</sup> This provision, obviously, is not democracy; but it is in striking contrast to the Charter of 1701 for Philadelphia. In that document Penn appointed the first officials: mayor, recorder, sheriff, town clerk, eight aldermen, and twelve common councilmen. These officers were thereafter to constitute a closed corporation. The Charter provided for an annual meeting of the mayor, recorder, and common council, "or any five or more of the aldermen, and nine or more of the common council men, the mayor and recorder for the time being, or either of them, being present . . . publicly to meet at a convenient room or place within the said city, to be by them appointed for that purpose, and then and there nominate, elect and choose one of the aldermen to be the mayor for that ensuing year." The same electoral body was empowered "to add to the number of aldermen and common council men, such and so many of these, that by virtue of these presents shall be admitted freemen of the said city from time to time, as they, the said mayor, aldermen and common council shall see occasion." The mayor, recorder, constables, clerk of the market, aldermen, and common councilmen were removable through the action of a stated quorum of the electoral board, the closed city corporation. No one might elect or be elected or be a freeman of the city, unless he was a free denizen of the province and an inhabitant of the city, at least twenty-one years of age. He must, moreover, "have an estate of inheritance or freehold therein, or . . . fifty pounds in money or other stock, and have been resident in the said city for the space of two years, or shall purchase . . . freedom of the mayor and commonalty aforesaid."

The mayor, recorder, aldermen, and common councilmen, a self-perpetuating body set up on so undemocratic a basis, had

<sup>119</sup> *The Pennsylvania Magazine of History and Biography*, XX (1896), 292.

large powers. They might make "such and so many good and reasonable laws, ordinances and constitutions (not repugnant to the laws of England and this government) as to the greatest part of them at such common council assembled (where the mayor and recorder for the time being are to be always present) shall seem necessary and convenient for the government of the said city." They might also "at their pleasure . . . revoke, alter and make anew" the laws of the city.

The mayor was empowered to appoint the clerk of the market, "who shall have assize of bread, wine, beer, wood and other things; and do, execute and perform all things belonging to the office of clerk of the market within the said city." The mayor, aldermen, and common councilmen were vested with authority to hold two weekly market days and two fairs each year. A port of Philadelphia was set up and these officials were given power to regulate it. They were clothed with judicial power: to act as a criminal court, as justices of the peace and of oyer and terminer. They might erect a jail and a courthouse. They might "bind to the peace or behavior, or commit to prison." They had authority to "take recognizance for debts." Such a constitution established as the government of Philadelphia not a democracy, either direct or representative, but an oligarchy.<sup>120</sup>

The course of politics under this charter did not long satisfy the Founder. He told Logan in 1703 that he "could wish the officers of the city of Philadelphia would be careful not to strive nor strain points to make their charter more than it truly means." Persistence in such a course, he added, would lead to his taking steps to "put a period thereunto as lawyers tell me here [in England] I may very easily do, and the government here would countenance the attempt."<sup>121</sup> Later he wrote that he had no doubt that the charter of Philadelphia had been subjected to revocation by the conduct of the Philadelphians: "their follies have been frequent

<sup>120</sup> *Ordinances of the Corporation of the City of Philadelphia*, pp. 1-10. Analyses of this instrument may be found in Scharf and Westcott, *History of Philadelphia, 1609-1884*, I, 174-175, and in Oberholtzer, *Philadelphia: A History of the City and Its People*, I, 86-87. Bartlett, "William Penn and Education," *Friends Intelligencer*, Vol. LXXXIX (1932), No. 43, p. 848, points out that Penn also embodied the principle of the "close corporation" in the charter which he granted to the Friends' school in Philadelphia.

<sup>121</sup> Penn to Logan, Feb. 24, 1702/3, Penn MSS—Penn Family to Logan, I, 55.



and big enough in the city to vacate their charter; but that should be the last thing, if any thing else would do. . . ." <sup>122</sup>

Penn's disapproval of the provincial Charter of 1701 has been alluded to earlier in this discussion, and his threats to cancel the liberties of the colonists have been mentioned. He frequently entertained the thought, at least, that the revocation of the Charter might be the most effective, if not the only, means of dealing with the refractory provincials. If his words may be taken literally, he was prepared to resort to strong measures. He attacked the Charter in 1704 in a letter to Logan and declared: "Nay, were I better fixed in the Lower Counties, I would find one [or "our" ?] way to dissolve the charter so far, but in no real privilege. . . ." <sup>123</sup> At the opening of the following year he remarked that "had I not given that ungrateful and conceited people that Charter, and got but four hundred per annum fixed for governor, etc. . . . [here follows a mutilated passage] made but too good conditions for them, I had had twice as much as I am now likely to have." He again menaced the Charter: "If I don't dissolve it, the Queen will, that charter I mean, which after all D. L.'s [David Lloyd's] craft and malice, despised for its craziness. . . ." <sup>124</sup> Even were allowance made for Penn's natural annoyance and proper sense of injustice, such sentiments would not be those of a democrat or even of a liberal of the eighteenth century. <sup>125</sup>

The Founder's attitude toward political opponents during the later years of his active life was not that of a democrat. Like other leaders, in and out of democratic countries, he was inclined in these later years to lose his temper with the opposition and resort to tactics as extravagant and abusive as are those commonly practiced in the quadrennial presidential campaigns of the modern United States. David Lloyd, leader of the opposition in the as-

<sup>122</sup> Penn MSS—Penn Family to Logan, I, 22.

<sup>123</sup> Penn to Logan, July 11 and 12, 1704, Logan Papers, I, 50.

<sup>124</sup> Same to same, Jan. 16, 1704/5, Logan Papers, I, 56. At the time Penn wrote this letter, he was negotiating with the British government with a view to selling his proprietary rights to the province of Pennsylvania.

<sup>125</sup> Oberholtzer, *op. cit.*, p. 85, says of the Charter of Privileges of 1701: "Thus were nearly all of Penn's chimerical political views upon which he had spent a good deal of youthful enthusiasm, swept away. A system of government which in some way answered to the actually developed needs of the people was established in its stead."

sembly, was the Founder's particular *bête noire* among the Pennsylvanians.<sup>126</sup> Penn repeatedly denounced Lloyd and his followers, sometimes in violent language. He condemned the popular leader to Logan once with the assertion that his enemy was an ingrate, "that owes his bread to me too." In the same letter he asked despairingly: "Who ever was so treated? The Lord forgive them [the Pennsylvanians] their great ingratitude. . . . Surely such a people dwell not upon the face of the earth. God, I hope, will deliver me from them. . . ." He thought it impossible to deal gently with them and proclaimed his belief "that a . . . rigorous hand must first teach them how to value my kindness and give me a better entertainment."<sup>127</sup> In 1707 he wrote Logan urging the latter to "get the governor and the best of my friends . . . to bestir themselves and browbeat that villainous fellow, David Lloyd. . . ." <sup>128</sup> He denounced Lloyd again to Logan in 1708, asking bitterly "if the proprietary and governor of any country can look well upon or even oblige such a people as doth, in defiance of the Crown here and me and my interest and authority there and here, show such respect to a delinquent and a vile ingrate, one that won't do right, and obstinately maintains the wrong theory. . . ." He raised the question "whether such a traitorous person ought not to be expelled a country." He asked again: "What proprietor and governor would care one jot what comes of such a foolish (if

<sup>126</sup> For a study of Lloyd, see Walton, "David Lloyd," *Jour. of the Friends' Hist. Soc.*, Vol. III, No. 2 (April, 1906), pp. 47-55, and No. 3 (July, 1906), pp. 96-105. Walton emphasizes the democracy of Lloyd, who was "tireless in his support of popular rather than property representation." See also Konkle, "David Lloyd and Chester," *Friends' Hist. Assoc., Bulletin*, XXI, 71-74 and the same author's "David Lloyd, Penn's Great Lawmaker," *Pennsylvania History*, Vol. IV (July, 1937), No. 3, pp. 153-156. Compare Konkle, David Lloyd and the First Half-Century of Pennsylvania, MS preserved in the library of the Historical Society of Pennsylvania. This author's thesis is that there was really no enmity between Penn and Lloyd, but that the latter was the Founder's instrument in a complicated series of maneuvers to defeat the Crown and secure political freedom to the Pennsylvanians against the wishes of the royal government. To the present writer Konkle's view seems difficult to support, when account is taken of Penn's written denunciations of Lloyd, except on assumptions not creditable to Penn's candor. More commonly, Lloyd is presented as an enemy of Penn. See Dixon, *William Penn* (1851), p. 320, Shepherd, *op. cit.*, pp. 285, 303, 476-477, 505, 550. Shepherd calls Lloyd "Penn's former arch enemy" in describing the latter's signature after the proprietor's death to a testimonial in his memory. *Ibid.*, p. 89, note.

<sup>127</sup> Penn to Logan, Jan. 16, 1704/5, Logan Papers, I, 56.

<sup>128</sup> Same to same, June 10, 1707, *Penn and Logan Correspondence*, II, 229.

not wicked) people." Then, remembering his religion—if neither his democracy nor his philosophy—he besought the Lord to "turn them and forgive them their deceivableness, and, I hope, blind disaffection and defection from their poor friend and governor, that has made them and their prosperity hundreds of times. . . ." <sup>129</sup> He threatened drastic action the following year. "I will make those unruly fellows tamer to me and my interest in a while, I hope," he wrote Logan. "Let them be ruled without vexatious assemblies and follow the laws of England, for that is the least danger to him and the best bridle to the shameless and base crew. . . ." <sup>130</sup> Penn forsook in this letter his entire democratic philosophy; but it must be noted that his words were those of a bitterly disillusioned man, one, moreover, who was aging noticeably and who had but a few years before his mental powers failed and left him incapable of intellectual effort. His private expressions to his close friend and confidant, Logan, in these last angry letters could not fairly be considered the reasoned opinions of the theoretical absolutist. Aside from such considerations, however, enough has been reported of the Founder's views to make clear that, like others who have professed democracy, he believed in discipline and in leadership. Like others, too, he was inclined to identify the democratic ideal with his own. *Vox populi vox Dei si vox proprietarii*.

David Lloyd and his friends were not the only opponents to earn the determined hostility of the proprietor. Penn repeatedly attacked Colonel Quarry. In one of the former's communications there seems to be some evidence that he would have resorted to devious measures to ruin the vice-admiralty officer. Penn apparently intended to make use of a quarrel involving Quarry's wife in order to discredit him.<sup>131</sup>

<sup>129</sup> Same to same, May 18, 1708, Penn MSS—Penn Family to Logan, I, 42. The letter is printed in *Penn and Logan Correspondence*, II, 271-274.

<sup>130</sup> Same to same, March 12, 1708/9, *Penn and Logan Correspondence*, II, 339. At one time Penn did direct Mompesson to take the necessary steps to annul both the Charter of Privileges and the charter of the city of Philadelphia. Mompesson must have found it impossible or inadvisable to obey the order, for the charter was not annulled. As late as 1708, however, Penn instructed Governor Gookin to dissolve the assembly and, if that should be impracticable, to call another by writ. But Logan advised so strongly against this, that the proprietor gave up the idea. Shepherd, *op. cit.*, pp. 311-312.

<sup>131</sup> Penn to Logan, Feb. 24, 1702/3, Penn MSS—Penn Family to Logan, I, 55. The pertinent passage follows: "I have had two nameless letters from your parts or

Usually, however, Penn threatened more direct action in his controversies. He urged Governor Hamilton of New Jersey in 1701 to employ strong measures against the rioters in that colony, whose conduct he denounced as "dishonorable and licentious." He thought it would "be hard to find temper enough to balance extremes, for I know not what punishment those rioters do not deserve, and I had rather live alone than not have such people corrigible. . . ." Concluding this passage, Penn showed again his preference for mild dealing but his willingness that stern measures be used as a last resort. "If lenitives won't do," he wrote, "corrosives should; but though naturally we would begin there, yet it is the end of wise men and a remedy with regret, too. . . ." On the whole, the letter is a strong expression of disapproval of the "mob's arguments" as well as of "their practice." To Hamilton he said, "Examples must be made by thee of them that acted so unexemplarily."<sup>132</sup> Even as early as the Great Law of 1682 rioting was recognized as unlawful in the province of Pennsylvania. Article XXII of that code had provided

that if any persons, to the number of three, shall meet together with clubs, staves, or any hurtful weapon, to the terror of any of the peaceable people of this province, and commit, or design to commit any violence or injury upon the person or goods of any of the said inhabitants, they shall be reputed and punished as rioters, and that act of terror and violence, or design of violence, accounted a riot.<sup>133</sup>

Penn had an interesting, if inadequate, explanation of the difficulty with which his colonists were to be managed. He thought that conceit and egotism were largely responsible for this opposition to him and his policies.

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Boston. The last was from Philadelphia 5 [?] 10 m. [Dec. 5?] intimating a quarrel between Colonel Q's wife and Mr. Thomas Jones, Mr. [master ?] of the Society's ship, and that he is both able and willing, he secured his wages, viz. seventy pounds, or thereabouts, that he is gone to Boston, and there might be treated with. I would have thee write (and get his relations of that place to write) to Dr. Zachery to enquire after him, and secure him his wages on my account to get the truth out of him of Q [uary]'s knavery to the company. 'T would slacken him here in his surveyorship and render it easier for me to get him discarded; for if I live, I will and shall be able to do it."

<sup>132</sup> Penn to Hamilton, April 3, 1701, Letter Book, 1699-1701, p. 98, printed in *Jour. of the Friends' Hist. Soc.*, Vol. III, No. 3, pp. 94-95. See also Penn to Honored Friends, April 26, 1701, Letter Book, 1699-1701, p. 100.

<sup>133</sup> Hazard, *Annals of Pennsylvania*, pp. 624-625.

There is [he wrote] an excess of vanity that is apt to creep in upon the people in power in America, who having got out of the crowd in which they were lost here [in England], upon every little eminency there [in America] think nothing taller than themselves but the trees, and as if there were no after-superior judgment to which they should be accountable. So that I have sometimes thought that if there were a law to oblige the people in power in their respective colonies to take turns in coming over for England, that they might lose themselves again amongst the crowds of so much more considerable people at the Custom-house, Exchange, and Westminster Hall, they would exceedingly amend in their conduct at their return and be much more discreet and treatable and fit for government. . . .<sup>134</sup>

Penn urged that these people be taught "not to destroy themselves." He declared: "Let them know and feel the just order and decency of government and that they are not to command, but to be commanded, according to law and constitution of English government."<sup>135</sup> Whatever else these dicta may be, they are not the sentiments of a democrat.<sup>136</sup>

William Penn's theories of government and politics were not those of the purely democratic idealist. They were frequently those of the advanced liberal of the eighteenth century and in some particulars they were still more modern. In his view, however, government took its origin from God. It existed chiefly, though not wholly, to secure justice, peace, and order; to bridle selfish individualism in the interest of the greater number. Penn's justice was more often religious toleration than purely civil guarantees; but his own frequent experiences with the court processes of Stuart England made him a jealous guardian of the rights of the accused before the law. Penn believed not in as little government as possible, but rather in as much or as little as would secure to every man his rights.

In political theory he was essentially the aristocrat turned in

<sup>134</sup> Penn to Logan, Feb. 14, 1704/5, Penn MSS—Penn Family to Logan, I, 22.

<sup>135</sup> *Ibid.*

<sup>136</sup> Penn thought, basically, that the form of the government ought to be shaped by the purpose or end of government. Thus, he wrote in the "Fundamentall Constitutions," that "since the main thing in hand is to lay such a foundation as may be most agreeable with right reason and conducing to the end of government, to wit, the virtue, peace, and prosperity of the people, to which all form and customs ought to yield." *The Pennsylvania Magazine of History and Biography*, XX (1896), 285.

the direction of liberalism through the teachings of George Fox and his associates. The revelations of the "inner light" seem to have worked in his political philosophy a powerful transformation; but they had not effaced the background of his heredity, early training, and personal relations with the Stuart court. Nevertheless, a highly optimistic idealism certainly characterized the early stages of his colonial venture, and Penn's enthusiastic schemes for the government of his province were clearly Utopian rather than practical in conception.<sup>187</sup> He constantly urged, through all the vicissitudes of his later life, the inalienable rights of liberty of religious belief, trial by jury, and the protection of the accused before the court. Government by the consent of the qualified governed he strove at first to achieve. Later, as in the charter for Philadelphia, this ideal does not appear. If his words were not wholly the product of exasperation, the Founder even contemplated at last the possibility of ruling his province "without vexatious assemblies." Throughout his career, except in matters of conscience, he recognized the duty of loyalty to authority. The characteristic Quaker tenet of nonresistance to civil power was a major element in this doctrine.

William Penn's ideal state was not a pure democracy. He believed, throughout most of his life at least, in a representative government, with the legislature well checked and controlled by superior law and with such democratic admixtures as instructed representatives and popular recall. He did not believe that the world would be perfect if all men shared equally in government or if government were reduced to the lowest possible minimum. On the contrary, he thought that organized political power was necessary to restrain the unsocial and that society could not exist without strong government. Like modern political reformers, he believed and preached that rights imply duties and that society must through government guarantee the validity of that theory.

<sup>187</sup> Penn's later disillusionment may have been due in no small degree to the reaction from his extreme optimism. One of his less worshipful biographers (Rigg, "Penn," *Dictionary of National Biography*, XV, 759), in fact, describes him as "a sanguine optimist, destitute of the penetration into human nature and capacity for determining the limits of the ideal and the practicable which mark the statesman." Such characters are liable to extreme and cruel disappointment when humanity fails to realize the probably unreasonably high expectations they have set up.

## Chapter IV

### PATRIOT AND IMPERIALIST

*No man in England is born slave to another.*

*I thought fit to caution thee that I am an Englishman ..*

*I will not shame my noble and worthy friends left behind me, but will justify their favor by both enlarging the English empire, to the honor and profit of the Crown, and serve and strengthen the interest of it against some permitted practices that time may detect ...*

—WILLIAM PENN

IN SPITE OF his Christian convictions about the brotherhood of man and the Quaker doctrines with regard to military force, with their implications as to the extreme nationalism commonly manifested in war, William Penn shared the sentiments of men who love and prefer their native land and its institutions above those of foreign peoples. Even at the conclusion of his pacifistic *Essay towards the Present and Future Peace of Europe*, after suggesting an international league as a guarantee against European wars, Penn wrote: "But I confess I have the passion to wish heartily that the honor of proposing and effecting so great and good a design might be owing to England, of all the countries in Europe. ..." While his patriotic emotions did not extend to the chauvinism so familiar to this and the preceding generations, they did influence his life more perhaps than some of his strict coreligionists might have thought quite proper. Combined with the broad cosmopolitanism which the literal acceptance of Christian teachings has not uncommonly bred, there was in Penn a strong vein of pride of nationality.

William Penn was thoroughly acquainted with the historic rights of Englishmen, and much of his eristic writing is an emphatic insistence upon those rights as the legal property of English Quakers. His assertion of English liberties, like the *Romanus sum* of the Augustan age, was perceptibly accompanied by a touch of complacency. For example, when he compared the religious lib-

erties of Holland with the restrictions upon conscience in his own country, he thought the condition unreasonable because "we are certainly then a *freer* people, and so ought not to be confined, as they are, about what person it is that must be chosen. . . ." <sup>1</sup> In *England's Great Interest* he argued that Englishmen ought to preserve their privileges, unique among the nations.<sup>2</sup> He once adjured James Logan and his friends "to pluck up that English and Christian courage." <sup>3</sup>

In his early letter to the Earl of Arlington, written from prison, Penn asserted that "there is no law to depr [deprive?] an inoffensive Englishman of so great and eminent a right as liberty." <sup>4</sup> An undated writing, preserved in his early Letter Book as a "form of a Preamble to a Bill of Tolleration," declares that the English guarantee of property was so highly prized by Englishmen and by foreigners that none "of the subjects of this kingdom [were] ever tempted to transplant themselves into other countries, though strangers were frequently invited to come and settle here." <sup>5</sup> Writing *England's Present Interest* in 1675, Penn summarized his views of English privileges and undertook to prove "that these have been the ancient and undoubted rights of Englishmen as three great roots, under whose spacious branches the English people have been wont to shelter themselves against the storms of arbitrary government. . . ." He declared in the same essay that: "No man in England is born slave to another; neither hath one right to inherit the sweat of the other's brow or reap the benefit of his labor but by consent. . . ." <sup>6</sup> Twelve years later Penn argued that to be an Englishman "in the sense of the government is to be a freeman." <sup>7</sup> When in 1692 Governor Fletcher by royal command took over control of Pennsylvania, the Founder wrote him, "I thought fit to caution thee that I am an Englishman." <sup>8</sup> Penn besought Har-

<sup>1</sup> "Good Advice to the Church of England," *Works*, II, 773.

<sup>2</sup> *Works*, II, 679.

<sup>3</sup> Penn to Logan, Dec. 4, 1703, Penn MSS—Penn Family to Logan, I, 15.

<sup>4</sup> Penn to the Earl of Arlington, sent apparently on March 5, 1669, Letter Book, 1667-1675, p. 18.

<sup>5</sup> *Ibid.*, p. 123.

<sup>6</sup> *Works*, I, 675, 688.

<sup>7</sup> "Good Advice to the Church of England," *Works*, II, 771.

<sup>8</sup> *Calendar of State Papers, Colonial Series, America and West Indies*, XIII (1692), 743, entry 2667. The marginal date is December 5, 1692. The volumes in this series are cited hereafter as C.S.P.



ley's favor on behalf of the proprietary colonies at the opening of 1699 with the same argument: "Let us be treated like Englishmen and not lose our domestic advantages for cultivating of wildernesses, so much to the honor and wealth of the Crown."<sup>9</sup>

Penn's acquaintance with the legal and constitutional history of his country is shown by the readiness with which he used it to argue for the inviolability of English rights. In *England's Present Interest*, for example, he traced the development of these rights from Saxon times with abundant citation of charters and statutes.<sup>10</sup> In his thirtieth year he wrote to some justices in Middlesex quoting history and Latin legal maxims to prove that the Crown should be permitted to suspend the execution of a "temporary law when the execution of it is impracticable."<sup>11</sup> His most heavily documented writings, to be sure, are those dealing with theological or doctrinal points, and for these works he drew his arguments rather from the armory of universal than of purely English history. In his political arguments against the penal laws, however, he took his evidence chiefly, though not exclusively, from the story of his own country.

If the royal Charter for Pennsylvania may be taken literally, one of Penn's purposes in founding the colony was "to enlarge our British empire."<sup>12</sup> While Penn himself did not give this purpose the prominence assigned it by the charteral statement,<sup>13</sup> he indicated in several letters that such was indeed one of the objects of his colonizing. Writing from Philadelphia in 1683 to Dartmouth, he said: "I will not shame my noble and worthy friends left behind me, but will justify their favor by both enlarging the English empire, to the honor and profit of the Crown, and serve and strengthen the interest of it against some permitted practices that time may detect. . . ."<sup>14</sup> One of the practices against which Penn acted with vigor was the countenancing by the Pennsyl-

<sup>9</sup> Penn to Harley, Jan. 30, 1698/9, Hist. MSS Com., 14th Report, App., Part II, Portland MSS, pp. 601-602.

<sup>10</sup> *Works*, I, 674-691.

<sup>11</sup> Penn to J.H. and His Companions, March 31, 1674, *Works*, I, 167-170.

<sup>12</sup> Hazard, *Annals of Pennsylvania*, p. 488.

<sup>13</sup> Penn to Harrison, Aug. 25, 1681, Penn MSS, X, Dom. & Misc. Letters, 6. This letter is printed in Hazard, *Annals of Pennsylvania*, pp. 522-524. See also Penn to Logan, Feb. 14, 1704/5, Penn MSS—Penn Family to Logan, I, 22.

<sup>14</sup> Penn to Dartmouth, July 28, 1683, Taylor Papers, I, 77.

vanians of violations of the English navigation acts. He placed his objections to these breaches of law, partly at least, on the ground that they were against "the English interest." At about the turn of the century piracy and infractions of the acts of trade were particularly common and scandalous in Philadelphia and the Lower Counties, and Penn wrote stern denunciations of these evils. In one such letter, written from London in 1697, he said:

The accusations of one sort and the reports of another that are come for England against your government not only tend to our ruin but our disgrace. That you wink at a Scotch trade and a Dutch one too, receiving European goods from the latter as well as suffering yours, against law and the English interest, to go to the other. Also that you do not only wink at but embrace pirates, ships and men ...<sup>15</sup>

During his second sojourn in Pennsylvania he devoted himself with energy to the enforcement of the English laws of trade and the suppression of piracy.<sup>16</sup> At that time he declared, "I am very ready to comply with any proposal that may serve the King and our mother country and these poor colonies. . . ." <sup>17</sup> Some months later he reported to the Lords of Trade certain suggestions for the improvement of colonial and imperial relationships "with an entire thought of service to the Crown, in which regard, though a proprietary, I shall never plead any privilege against the zeal and duty that recommends any of the King's governors so far as my skill or power shall enable me. . . ." <sup>18</sup> He reported subsequently to the Board that "there is much to do to improve the morals of the people and the capacity of these parts of the world to trade" because "it is trade must make America valuable to England." <sup>19</sup>

In 1700 Penn learned of a new attempt just launched in England to vacate the proprietary charters, a development which eventually obliged him to leave America and return to combat in person the threatening danger. At first, however, he undertook to checkmate the movement by appealing to influential friends in England. In his letters to these men he stressed those arguments which seemed to him to prove the advantage to the Crown of

<sup>15</sup> Penn to Friends, Sept. 5, 1697, Dreer Collection—William Penn's Letters, p. 42.

<sup>16</sup> Penn to the Board of Trade, Letter Book, 1699-1701, pp. 11-12.

<sup>17</sup> Penn to Tatham, March 21, 1699/1700, Society Collection

<sup>18</sup> Penn to the Board of Trade, Dec. 8, 1700, Letter Book, 1699-1701, p. 51.

<sup>19</sup> Same to same, July 2, 1701, Letter Book, 1699-1701, p. 109.

proprietary governments in contrast to the disadvantages of royal governments. The proprietor was thus represented as a useful builder of the British empire. For example, Penn argued that proprietary governors had naturally a greater interest in improving their colonies "than temporary and mercenary governors," and that proprietors, who had most to lose, would be the best security to the Crown "'Tis for the King's interest," he concluded, "to countenance proprietary governments and that for these two unanswerable reasons because both are demonstrations."<sup>20</sup> During the twelve years of negotiation with the Board of Trade concerning the surrender of his colony to the Crown, Penn called attention to the profit which had resulted to England from his project in Pennsylvania.<sup>21</sup> In this period he repeatedly cited the advantages accruing to the mother country from the growth of the Quaker colony, in order, no doubt, to make better terms not only for himself but also for the Friends in Pennsylvania, who, in his words, had "made it a country."<sup>22</sup> It will not, of course, be denied that Penn's arguments were those of an interested advocate contending for his own advantage and for the benefit of his co-religionists, nor can it be maintained that the glory of England and the profit of the English Crown and nation were the most important motives for his experiment. Nevertheless, if he be credited with sincerity, it must appear that among his purposes was the advancement of his country's interests.

About three months after the creation of the Board of Trade in 1696, that body submitted to the Privy Council a recommendation that the military authority in the continental colonies be centralized in a royally appointed captain general and that this officer exercise the powers of a governor whenever he was present in a royal colony.<sup>23</sup> This proposal seemed designed, of course, to secure unity of command during the current French war. Military

<sup>20</sup> Penn to Lawton, Dec. 21, 1700, Letter Book, 1699-1701, p. 80.

<sup>21</sup> B T.P., IX, Q 4 (entry for Dec. 7, 1710).

<sup>22</sup> Penn to Logan, Aug. 27, 1703, Penn MSS—Penn Family to Logan, I, 12. Compare Penn to Hailey, Feb. 9, 1703/4, Hist. MSS Com., 15th Report, App, Part IV, Portland MSS, pp. 79-81.

<sup>23</sup> Greene, *Provincial America, 1690-1740*, p. 56. Compare the editorial note of introduction in "William Penn's Plan for a Union of the Colonies," Hist. Soc. of Pa., *Memoirs*, VI, 264. The Board of Trade was created on May 15, 1696. The report mentioned bears the date of August 20, 1696.

considerations also involved the furnishing by the neighboring colonies of contingents of armed forces to defend New York. On this subject Penn spoke before the Board of Trade in December, 1696. According to the journal of that body he asserted "that he conceived the best way of regulating it [the military quota] would be, by stated deputies from each Province, to meet in one Common Assembly." It was "observed," though the journal does not say by whom, that the "effecting" of this plan would require a presiding captain general or viceroy. Penn was then invited to prepare and submit "a scheme more fully in writing."<sup>24</sup> In compliance, on February 8, 1696/7, he offered his famous plan of union, "how the English colonies in the north part of America may be made more useful to the Crown and one another's peace and safety, with an universal concurrence." The earlier record in the journal as just outlined would suggest that considerations of defense gave birth to Penn's plan. The entry for the date on which the scheme was submitted to the Board, however, states that Penn "explained that his meaning in it was principally for adjusting the differences that might arise between any of those colonies in civil matters, not military."<sup>25</sup>

This "Briefe and Plaine Scheam" for colonial co-operation has been discussed by Penn's biographers and by historians of the colonial period.<sup>26</sup> It included seven proposals. One was the creation of a provincial congress to meet once a year, and more often if necessary, during the war then in progress and at least once in two years during peace. Each of the ten colonies contemplated in the plan was to be represented in this body by two deputies "well qualified for sense, sobriety, and substance." The presiding officer was to be the King's commissioner, appointed particularly for that service. A central meeting place was to be selected. As Penn

<sup>24</sup> B.T.J., IX, 276. Compare the account in Root, *The Relations of Pennsylvania with the British Government*, pp. 267-268, and that in Hull, *William Penn: A Topical Biography*, pp. 236-238.

<sup>25</sup> B.T.J., IX, 394-395.

<sup>26</sup> The full title reads as follows: *A Briefe and Plaine Scheam how the English Colonies in the North Parts of America viz: Boston Connecticut Road Island New York New Jerseys, Pensilvania, Maryland, Virginia and Carolina may be made more usefull to the Crowne, and one anothers peace and safety with an universall concurrence*. It is printed in Hist. Soc. of Pa., *Memoirs*, VI, 264-265. The most recent printing is in Hull, *William Penn: A Topical Biography*, pp. 236-237.

thought that "in all probability" the sessions would be held in New York, he suggested that the governor of that colony might also be designated as the King's high commissioner. This officer was to be the "general or chief commander of the several quotas [from the constituent provinces] upon service against the common enemy" in time of war. The most interesting of these proposals was the sixth, in which Penn outlined the general functions of this continental congress. "Their business," he wrote, "shall be to hear and adjust all matters of complaint or difference between province and province." Such matters would be the flight of persons from one colony to another to "avoid their just debts though they be able to pay them"; the defeat of justice through the escape of offenders from one province to another; the prevention or adjustment of injuries suffered in commerce; and the consideration "of ways and means to support the union against the public enemies." Moreover, he argued that the congress could fix the quotas of men and money more easily and fairly than could "any establishment" made in England, "for the provinces, knowing their own condition and one another's, can debate that matter with more freedom and satisfaction and better adjust and balance their affairs in all respects for their common safety."<sup>27</sup>

The fact that this plan was not accepted is no reflection on the farsighted statesmanship of its author. In the light of succeeding history, particularly the record of the so-called "critical period," Penn's suggestions seem to contain much practical sense. He definitely recognized and offered a solution for two of the difficult problems which demonstrated the inadequacy of the Articles of Confederation: intercolonial or interstate commerce and national defense. He hinted at an answer to the vexing problem of public finance. Thus William Penn must be numbered among those English and American statesmen who before 1787 vainly tried to solve the great questions answered by the American federal system, the establishment of limited government in an imperial order.<sup>28</sup>

Though he did not see his plan adopted by the English au-

<sup>27</sup> Hull, *William Penn: A Topical Biography*, p. 237.

<sup>28</sup> For a good discussion of this historic problem see McLaughlin, *The Foundations of American Constitutionalism*, pp. 135-166.

thorities, on his second visit to Pennsylvania the Quaker leader sought by voluntary action of the provincial governors to forward the cause of colonial unity. His relations with other proprietors and governors were by no means uniformly harmonious. The long controversy with the Calverts over the Maryland boundary was still unsettled at Penn's death. There were misunderstandings with Governors Dongan and Fletcher of New York and with Governor Nicholson of Maryland. Nevertheless, during his second sojourn in America he attempted to act in harmony with his neighbors to the end that a strong English empire might be developed in the New World. In December, 1699, he wrote to Nicholson, then governor of Virginia, a general statement of his purposes:

I desire with all sincerity a good understanding among the governors of the provinces under the Crown of England for their reputation at home and the prosperity of the respective provinces, and do assure thee that it shall be my endeavor to discharge my part as becomes both my duty and interest; and since the suppression of illegal trade and the roving of pirates about the several colonies seems the immediate concern, I have begun and shall continue to make it my care and on all occasions desire thy advice and assistance in the discharge of that branch of my duty to the Crown....<sup>29</sup>

Penn evidently felt that in order to secure effective enforcement of the acts of trade it would be necessary to have greater intercolonial co-operation. At a later date the Quaker proprietor took occasion to wish that with respect to the quotas of men and money to maintain a fort in the Onondaga country some agreement "had been concerted with the governors of the continent for the general satisfaction...."<sup>30</sup> Penn sought to protect his colonists in their conscientious scruples against participation in war; yet he recognized the threatening danger from the hostile French. In this dilemma he found a partial solution in intercolonial co-operation to provide for imperial defense.

Less than two weeks after his arrival in Pennsylvania in 1699, on the day following the composition of the letter to Nicholson, Penn opened correspondence with Governor Blakiston of Maryland. In this letter he hoped that "my carriage will convince my neighbors that we intend to be dutiful to the Crown, careful of

<sup>29</sup> Penn to Nicholson, Dec. 12, 1699, Letter Book, 1699-1701, p. 1.

<sup>30</sup> Penn to Blakiston, May 26, 1701, Letter Book, 1699-1701, p. 105.

its revenues, and the good of mother country, and very friendly to our neighbor colonies.”<sup>31</sup> Replying later to a communication from Blakiston, Penn carried the idea of intercolonial co-operation a step further. He wrote that it was of “some satisfaction” to him “that we are so much of a mind about our duty to the public, in a just and friendly correspondence upon all occasions that may serve it.” This declaration is followed immediately by a passage which, if not quite clear, plainly indicates that Penn had begun to think of the British empire as essentially a federation rather than a unitary state. He wrote: “I have long wished it [“a just and friendly correspondence”] and in order to it have presented the best scheme that my notice of things could frame to me to improve it between the colonies (that though independent one of another are all subject to the Crown of England) which if it succeed not to my wish I hope a better will from an abler hand.”<sup>32</sup> What this “best scheme” was is not to be discovered from available sources, but it may have been some such program as was discussed later in the same year by the governors in their conference at New York. In the spring of 1700 Penn also opened a correspondence with Winthrop of Connecticut, excusing himself in the first letter for having been “four months in America without telling Colonel Winthrop of it.”<sup>33</sup> Following this beginning there may have been other letters between these two governors, but the extant sources reveal no reply to the opening message of Penn and no further correspondence between the two.

From these letters two interesting facts appear. It seems not too much to say that as early as 1700 Penn was thinking in an elementary way of a federal system as a solution to the great problem of imperial organization. Moreover, it would appear certain that the idea of intercolonial correspondence antedates both the Massachusetts of Samuel Adams and the Virginia of Patrick Henry and Thomas Jefferson. Penn likewise anticipated the scheme of Peters proposed on the eve of the French and Indian War. With a purpose quite different from that of the colonial leaders in the days of the Revolution, William Penn suggested and carried out an

<sup>31</sup> Same to same, Dec. 13 and 23, 1699, Letter Book, 1699-1701, p. 3.

<sup>32</sup> Same to same, Jan. 13, 1699/1700, Letter Book, 1699-1701, p. 4.

<sup>33</sup> Penn to Winthrop, May 13, 1700, Letter Book, 1699-1701, p. 36.

intercolonial correspondence more than threescore years before the patriots in Massachusetts and Virginia had invented their system. He was trying to create a colonial harmony within the British empire. Perhaps his was essentially the same imperial ideal, vague though it may have been, that animated Joseph Galloway seventy-four years later in the First Continental Congress.

As indicated in his plan of union, Penn believed that closer intercolonial co-operation would not only serve imperial purposes but also forward the more successful management of some troublesome domestic problems. He thought, for example, that some universal provision throughout the colonies regarding marriages would be advisable to prevent "clandestine ones" and to hinder "double ones."<sup>34</sup> On another occasion he intimated that Lord Bellomont, governor of New York, ought to take action against a New York printer who had published for "a quondam Quaker" certain "reflections upon both our government and persuasion."<sup>35</sup>

Penn's correspondence with his neighbors, the governors of New York, New Jersey, Maryland, and Virginia, was often an exchange of news and even of gossip. When dispatches from London or reports from elsewhere in the Old World reached him, however indirectly, he sometimes incorporated these items in his letters to the neighboring governors.<sup>36</sup> On occasion he commiserated with his correspondents on their physical ailments; and once he sent Nicholson a prescription which, he said, "fortifies the stomach and sweetens the blood."<sup>37</sup> It was noted in the preceding chapter that he wrote to Governor Hamilton of New Jersey, expressing his horror of the riots in that disturbed region and his sympathy with the governor, who had suffered ill-treatment at the hands of the mob.<sup>38</sup> These letters thus reveal the friendly nature and conciliatory disposition which played so large a part in Penn's

<sup>34</sup> Penn to Bellomont, Oct. 10, 1700, and Penn to Nicholson, Dec. 31, 1700, Letter Book, 1699-1701, pp. 42, 82.

<sup>35</sup> Penn to Bellomont, Dec. 9, 1700, Letter Book, 1699-1701, p. 46.

<sup>36</sup> E.g., Penn's letters to Blakiston, April 10 and Oct. 10, and to Bellomont, Dec. 30, 1700, Letter Book, 1699-1701, pp. 22, 41, 65-66.

<sup>37</sup> Penn to Nicholson, Dec. 31, 1700, Letter Book, 1699-1701, pp. 81-86. In his letter to Bellomont, Jan. 30, 1699/1700, Penn had expressed his sympathy with the Earl for "thy hard treatment from the gout, a distemper easily provoked by this churlish climate or season of the year..." Letter Book, 1699-1701, p. 6.

<sup>38</sup> Penn to Hamilton, April 3, 1701, Letter Book, 1699-1701, p. 98.



ability to manage men. They offer additional evidence to explain how he was usually able personally to administer the affairs of Pennsylvania with relative smoothness, in such striking contrast with the turbulent government under most of his lieutenants or deputies.<sup>39</sup>

There is considerable indirect evidence that William Penn was chiefly responsible for the conference of governors held in New York during the early autumn of 1700.<sup>40</sup> The participants were to be Penn, Bellomont, Blakiston, and Nicholson. It appears that Hamilton of New Jersey was not among them, and whether he was invited is not known. The troubled political situation of the Jerseys at the time may have caused the promoters of the conference to consider his inclusion inexpedient. On a later occasion Penn wrote to Nicholson about a conference between himself, Nicholson, Bellomont, and Hamilton.<sup>41</sup> At the time of the New York meeting, according to Penn's report to the Board of Trade, illness had incapacitated both Blakiston and Nicholson. It would appear, therefore, that the discussion was chiefly between Penn and Bellomont, though at times Nicholson was able to take part.<sup>42</sup> In a long communication to the English government after these conversations Bellomont reported some "Heads of several things proper for the Plantations and fit to be recommended home to England, drawn up by Mr. Penn."<sup>43</sup>

<sup>39</sup> Penn did not confine his correspondence to the governors of the continental colonies; he also opened an exchange with the governors of Barbados and Jamaica. His purposes seem to have been both the cultivation of neighborliness, as he indicated in one of the letters to Governor Grey of Barbados, and "the service of the Crown as occasion offers and to maintain a friendly commerce between both colonies," as he told Governor Beeston of Jamaica. Letter Book, 1699-1701, pp. 6, 7, 37-38, 43.

<sup>40</sup> Without citing sources Bolles, *Pennsylvania: Province and State*, I, 165, asserts that in this conference "Penn was the leading figure." Neither letter of invitation to this conference nor proposal of such a general meeting on the part either of Penn or of any of the governors concerned is known to the writer. From the fact that the intercolonial correspondence was surely initiated by Penn it would appear in all probability that he suggested the meeting in the first place. Writing to James Logan under date of the first of the eighth month, 1700, Penn said that because of the ill-health of Governor Nicholson "our conferences have been retarded, which truly are of great importance to the weal of America..." *Penn and Logan Correspondence*, I, 19.

<sup>41</sup> Penn to Nicholson, Dec. 31, 1700, Letter Book, 1699-1701, p. 82.

<sup>42</sup> Penn to the Board of Trade, Dec. 8, 1700, Letter Book, 1699-1701, pp. 47-51; B.T.J., XIII, 428 (entry for April 1, 1701).

<sup>43</sup> C.S.P. (1700), pp. 598-599 (entry No. 845, for Oct. 17, 1700).

The report thus submitted by the Earl differs in some particulars from that sent to the Lords of Trade by Penn. Bellomont listed eight proposals. The first was that there be established a standard coin, of uniform value throughout the colonies. The second was that a "mint for small silver" be set up in New York. Thirdly, an impost on foreign timber was suggested to protect colonial exporters of timber for England. Fourthly, the northern boundary with the French was to be so adjusted that English territory might extend to "the river and lakes of Canada." Fifthly, a uniform law regarding runaways and vagrants and dishonest debtors was recommended for all the continental colonies. Sixthly, it was advised that a liberal general law for naturalization of foreigners applying to all the colonies be passed in England. Seventhly, appeals from colonial courts to England should be limited to cases involving values of at least three hundred pounds. Finally, a payment was recommended for the capture of pirates, sufficient not only to defray the charges to which the captor might be put but also to reward him with a part of the piratical booty.

Penn had departed from the conference in such haste, he said in his report of the proceedings, that he had omitted to take a copy of the recommendations agreed upon and had left the original with the Earl of Bellomont.<sup>44</sup> He added to the list given by the latter the proposals that the colonial marriage laws be reformed, "it too often falling out that one man has two wives and one woman two husbands"; that "a general post were settled"; that "allowances may be made in hearing of appeals by the Lords or Commissioners thereof secundum aequum et bonum, and not by the strictness of the forms of the laws of England"; and that the Woollens Act be modified. According to Penn's version of the points agreed upon at the conference, the recommendation regarding the appeal of cases from the colonial courts to England emphasized not the amount or value of the suit, as Bellomont's report would seem to indicate, but the desirability of uniformity. On that subject Penn's report read: "That sums appealable were

<sup>44</sup> Penn's report appears in his letter to the Board of Trade, Dec. 8, 1700, a copy of which is in the Letter Book, 1699-1701, pp. 47-51. On Oct. 10, 1700, Penn wrote to Blakiston that "seven or eight particulars were agreed upon to be represented home. Having left the foul copy with the Earl of Bellomont, cannot command a fair one to send thee, but shall the first" Letter Book, 1699-1701, p. 41.

the same in all the colonies, as three, four, or five hundred pounds." With respect to the provision about English timber Penn was less specific; he thus stated that point: "That encouragement were given to convict timber here for all rates of ships that so English timber might be preserved and freight not eat out the profit." Penn's version omitted the recommendation as to a law for naturalization. Such a lapse on his part would appear curious, for he was actively interested in naturalizing under favorable terms the immigrants from Continental Europe to Pennsylvania. He also failed to mention the proposal to "rectify" the northern boundary of New York, though he was to make a similar suggestion later. Penn concluded his summary with this interesting statement: "I know I have forgot three or four particulars that were in the minutes I left with the Earl of Bellomont, and started as many new ones, with an entire thought of service to the Crown . . ." <sup>45</sup>

There is no direct evidence as to which of these proposals may be credited to Penn.<sup>46</sup> When Bellomont wrote that the program had been "drawn up by Mr. Penn," he may have meant that the Quaker had put the items in their final form rather than that he was responsible for all the suggestions. It would seem, however, that a man of Penn's persuasive personality, fertile brain, and managerial capacity must certainly have weighed heavily in a conference with Bellomont, Blakiston, and Nicholson; it is perhaps probable that he exercised a compelling influence upon the meeting. Certain of the items in the program Penn on other occasions definitely supported in principle—such, for example, as the law regarding naturalization, the attempt to make court procedure more equitable, the provision relating to the northern boundary, and the action recommended as to runaway servants and debtors "who shift not of poverty but knavery." <sup>47</sup> Had Penn originated the entire program, it would be reasonable to suppose that he would not have forgotten points which he must have forgotten if

<sup>45</sup> Penn to the Board of Trade, Dec. 8, 1700, Letter Book, 1699-1701, p. 51.

<sup>46</sup> In a letter to Bellomont Penn spoke of one of the matters listed by him but not by Bellomont, the prevention of clandestine marriages "and hindering of double ones," as having been "mentioned by Governor Nicholson in the coach as a fit subject to represent home for them to recommend universally in America." Penn to Bellomont, Oct. 10, 1700, Letter Book, 1699-1701, p. 42.

<sup>47</sup> The clause is from Penn's report to the Board, Dec. 8 and Dec. 13, 1700. B.T.P., Vol. VI, Part I, G 4.

both his and Bellomont's statements are true. It may seem unusual, too, that the originator of the program should have preserved no copy of his work; but it must be admitted that on occasion William Penn was a strangely careless man.<sup>48</sup> Perhaps the guess might be made that Penn's report to the Board, with its omissions and additions as compared with Bellomont's dispatch, represents what Penn wished as the program of the conference, and that those points which he slighted or left out seemed of relatively lesser importance to him. There could hardly have been any reason for deliberately misrepresenting the proposals of the governors to the authorities in England.

Whether or not he formulated all of the recommendations submitted by this conference, Penn played a large, if not dominant, part in the deliberations. Again the Founder of Pennsylvania appears as more than the idealistic builder of the great Quaker commonwealth. He must be counted a farseeing statesman, who early recognized some of the possibilities of American unity, who fostered in its infancy the spirit of intercolonial co-operation within the British empire.

Penn's interest in problems of an imperial order is further attested by his letters to the various governors on Indian affairs. On the eve of Queen Anne's war, Penn undertook the role of diplomat, to keep the Indians out of an active French alliance. "Methinks," he wrote, "it should not be impossible to persuade those nations from serving French turns. If our own side desert not itself, I cannot imagine why the Indians should. . . ." <sup>49</sup> In July of 1700 Penn wrote Bellomont reporting that he expected soon to effect such arrangements with some of the "western and northern Indians" as would frustrate the French.<sup>50</sup>

Penn's foreign policy with reference to the red men, if it may be

<sup>48</sup> See Penn to Thomas Lloyd, Oct. 7, 1684, Huntington MSS, HM 22031, in which the Founder states that he cannot find some important papers, "the ground of my coming [from America to England] and strength of all my cause." Upon his return to England in 1701 he likewise failed to take with him the papers necessary to win the battle which he had left America to fight. Penn to Logan, Jan. 4, 1701/2, *Penn and Logan Correspondence*, I, 69-76.

<sup>49</sup> Penn to Bellomont, undated, Letter Book, 1699-1701, p. 40.

<sup>50</sup> *Ibid.*, pp 38-39: "I expect two hundred of our western and northern Indians with me every day and shall endeavor such an understanding with them as may disappoint the French. . . ."

so described, is illustrated by the treaty which he made in April, 1701, with the Susquehannah Indians.<sup>51</sup> This agreement provided that "there shall be forever hereafter a firm and lasting peace" between Penn and his successors "and all the English and other Christian inhabitants" of Pennsylvania and the natives. Each party agreed to refrain from injuring or defrauding the other. The Indians promised to "behave themselves regularly and soberly, according to the laws of this government while they live near or amongst the Christian inhabitants thereof." In return, they were to "have the full and free privileges and immunities of all the said laws as any other inhabitants, they duly owning and acknowledging the authority of the Crown of England and government of this province." The Indians agreed not to assist any other nation, "whether of Indians or others," in hostility with the English. Thus Penn sought to detach the Indian tribes from the French. To counteract the propaganda so industriously spread among the red men by Canadian agents, the treaty provided that the Indians should give notice of "unkind or disadvantageous reports of the English" to Penn and that they should believe no such reports until Penn had satisfied them that the stories were truthful. The agreement also provided that the Indian chiefs should not permit "strange nations of Indians" to settle "on the further side of the Susquehannah or about Potomac river" without permission from Penn. The Quaker agreed to restrict the activities of traders with the natives, and they promised to do business with none who had not first had his approval. This provision, of course, limited the Indian trade to Englishmen or to persons under English jurisdiction.<sup>52</sup>

<sup>51</sup> *Col. Rec.*, II, 15-18 (entry for April 23, 1701).

<sup>52</sup> In May, 1701, at a session of the provincial council, Penn took up the matter of French traders with the Pennsylvania Indians. In his remarks to that body he named two Frenchmen in particular, Louis and P. Besalieu, who had "been suspected to be very dangerous persons in their traffic with the Indians in this troublesome conjuncture of affairs." The council, thereupon, went on record as follows: "Resolved, that it was absolutely necessary the said two Frenchmen should be confined and restrained from inhabiting or trading amongst the Indians; and that some way should be agreed on to carry on that trade by a certain number or company, who should take all measures to induce the Indians to a true value and esteem for the Christian religion by setting before them good examples of probity and candor both in commerce and behavior, and that care should be taken to have

Reporting his negotiations to the Board of Trade, Penn wrote that he had "had divers meetings with the several nations of Indians of these parts," groups belonging chiefly, of course, to the great Algonquian family. He informed the Board that he had been able to persuade these tribes not to war either upon each other or upon other Indians under English control "but rather they would refer their differences to the respective governments they live under to issue them without blood, lest such sort of civil wars as may be called may not only waste them but bring war and danger too near our English pale. . . ." <sup>53</sup> Plainly, Penn believed that the English governors in the colonies should constitute themselves arbiters of Indian disputes and that thus the English colonial organization might be strengthened. Writing to Governor Nanfan on the same date as the report just indicated, Penn expressed the belief that with the Indian tribes the proper policy for the English was that of *Divide et impera*. To secure such a condition he wished to have the Indian groups definitely under the jurisdiction of the provincial governor who held jurisdiction over the respective Indian territories.<sup>54</sup> In another letter Penn developed this idea of inducing each Indian group to subject itself to the English governor in whose dominions the nation resided, that thus disputes "might be ended and not by military attempts of their own." That, said he, "is what I have inculcated and hope not without success among those under my government. . . ." <sup>55</sup> Logan considered it of vital importance to the colonies that the English have red allies in the war with the French and hostile Indians. Barring "a strong attack at sea," he saw little hope for success against the enemy. In 1702 he conquered his aversion "to meddle too far" by urging Penn's consideration of his opinion that "should we be

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them duly instructed in the fundamentals of Christianity. . . ." *Col. Rec.*, II, 19 (entry for May 17, 1701).

<sup>53</sup> Penn to the Board of Trade, July 2, 1701, Letter Book, 1699-1701, p. 108.

<sup>54</sup> He thus expressed his views: "'T'is of great importance that these five nations and all other Indians in the dominions of the Crown of England were one people as we are under every such government, and better that they depended on each respective government they were under than that they were a confederacy of themselves, for that might teach them to be more formidable to us than that they are to the common enemy. . . ." Penn to Nanfan, July 2, 1701, Letter Book, 1699-1701, p. 105.

<sup>55</sup> Penn to "Hon. Friends," May 17, 1701, Letter Book, 1699-1701, p. 103.

attacked, who are quite destitute of Indians, we are in the worst condition; for all Caesar's army could not cope with a few of them without the assistance of some of their own nation and mode of warfare." <sup>56</sup> What Penn thought of this view is not known. If Logan's view was correct, Penn had certainly not succeeded in building effective Indian alliances. If it be a sound opinion, Logan's idea serves to support Penn's theories, however, of the importance of keeping on good terms with the Indians for imperial and military reasons.

Penn, the Quaker pacifist, saw clearly the dangers of Indian warfare and wished to protect his colonists from such disasters as invariably accompanied the attacks of the savages. But he also saw the natives as a larger problem, as potentially either valuable allies of the English or dangerous enemies under French control. He not only recognized this diplomatic dilemma but he labored as an English statesman to weaken or destroy the Canadian influence with the red men and to utilize the native tribes as buffers against the north. He saw the Indian problem in a still larger sense. He realized that for the long years of peace permanent relationships between the more primitive peoples and the whites must be established and that to devise such an accommodation constituted a task of truly imperial magnitude. He suggested an Indian policy for an empire.

It has been pointed out that William Penn joined with the governors of other colonies bordering upon his province in the conference of 1700 to recommend that the northern boundary of the English territories south of Hudson Bay be pushed up to the Great Lakes and the St. Lawrence river. Penn may even have originated this suggestion. At any rate, he wrote Bellomont after the conference to the following effect: "I must beg thy further thoughts about them [the considerations debated at the conference]. There are three or four more will claim an equal place with any one of the others, as that of settling the French and our boundaries safely to the English empire. . . ." <sup>57</sup> Whether he had forgotten that this point was among those of which Bellomont had minutes or whether he wished to modify the suggestion as adopted

<sup>56</sup> Logan to Penn, May 2, 1702, *Penn and Logan Correspondence*, I, 88-89.

<sup>57</sup> Penn to Bellomont, Dec. 30, 1700, *Letter Book*, 1699-1701, p. 67.

by the governors at New York does not appear. It would seem certain, however, that whether or not Penn was the father of the proposal as to the northern boundary, he at least was in agreement that something should be done about it

That he retained this interest is attested by a letter which he wrote more than eight years later to the Duke of Marlborough. Taking advantage of the apparent likelihood of peace in the spring of 1709, he proposed to the Duke that the English boundaries be extended to both the north and the west:

I should be glad if our north bounds might be expressed and allowed to the south side of St. Lawrence's River that feeds Canada eastward and comes from the lakes westward, which will make a glorious country, and from those lakes due west to the River Mississippi and travers that river to the extreme bounds of the continent westward, whereby we may secure one thousand miles of that river down to the Bay of Mexico....<sup>58</sup>

He who could express such hopes had imperial ambitions worthy of comparison with those of the elder Pitt.

Throughout the course of his colonial venture William Penn was keenly aware of its importance to the mother country. Proud of his English allegiance, though doubtless moved also by caution in his difficult position as proprietor under William III, he sought in colonial affairs loyally to advance the interests of the Crown. He made earnest, and successful, efforts to enforce the acts of trade. Though he opposed war and militarism, the force of circumstances obliged him to give attention to imperial defense. One fruit was the plan of union of 1697. Another was an Indian policy designed to detach from the French their savage allies; at all events, to build between the English and their northern enemies a barrier of friendly tribes. Eventually, he contemplated the conquest from the French of an imperial domain.

Having failed to convince the authorities in England by the plan of 1697, Penn proceeded to develop his ideals of intercolonial co-operation along other lines. He undertook by conferences with the neighboring governors to improve colonial and imperial administration. He inaugurated a system of intercolonial corre-

<sup>58</sup> "Inedited Letters of William Penn," *Hist. Soc. of Pa., Memoirs*, Vol. III, Part I, p. 291. The letter is dated May 22, 1709.



spondence which, ably handled, might have contributed important results in the building of the first British empire. He perceived the value of a planned Indian policy for times of peace as well as of war. He recognized the need of intelligent white supervision in the management of relations with the primitive natives. With surprising clearness he saw the nature of the problem of imperial administration in the English colonies; and he seems to have understood, intuitively perhaps, that the solution must contain the elements of the federal system or the principles of imperial federation. On the one hand, ideals like those of William Penn were to grow into the Constitution of 1787; on the other, in the still more distant future, into the Statute of Westminster of 1931.

## Chapter V

### COSMOPOLITAN PACIFIST

*I cannot fight against any man.*

*As truth-speaking succeeded swearing, so faith and truth succeeded fighting is the doctrine and practice of this people*

*As justice is a preserver, so it is a better procurer of peace than war*  
—WILLIAM PENN

WILLIAM PENN contributed to the formulation of the Quaker ideology of peace and war. His writings rank with those of Fox and other leaders of the Friends as statements of the position of the sect on these subjects. Much of his pacifism is plainly of Biblical origin, but he stated that some of his ideas were inspired by the reading of Sully's famous *Memoirs* and Sir William Temple's *Observations upon the United Provinces of the Netherlands*.<sup>1</sup>

Penn advocated an extreme submissiveness in some of his essays. He expressed the attitude there of one who literally accepted the maxim "Resist not evil." It has been pointed out earlier that in the preface to the First Frame he quoted St. Paul in stating that every soul should be "subject to the higher powers, for there is no power but of God." Using the Apostle's words, he decried resistance to authority. He directed his children in Scriptural language to "submit to every ordinance of man, for the Lord's sake"; to "obey those that have rule over you"; to "speak not evil of dignities"; to "fear . . . the Lord and the King."<sup>2</sup> In his *Fruits of Solitude* he advised conformity except when conscience urged otherwise.<sup>3</sup> Again, in his *Key, Opening the Way to Every Capacity*, he recommended truly "expressing our respect to our superi-

<sup>1</sup> See such of Penn's works as *Peace of Europe, Primitive Christianity Revived*, and "Preface" to Fox, *The Journal of George Fox*. Compare Hull, *William Penn: A Topical Biography*, pp. 236-240; Sharpless, *A Quaker Experiment*, p. 44; Hirst, *The Quakers in Peace and War*, pp. 156-165; Proud, *The History of Pennsylvania*, I, 59.

<sup>2</sup> *Works*, I, 906.

<sup>3</sup> *Fruits of Solitude*, p. 122.

ors in all countries" and "honoring of government and governors" by "obeying all just laws under their government according to the saying of the centurion unto Christ."<sup>4</sup> Concluding his remarks on "Pride" in the eighth chapter of *No Cross, No Crown*, he declared: "Great is their peace who know a limit to their ambitious minds, that have learned to be contented with the appointments and bounds of Providence, that are not careful to be great, but being great are humble and do good."<sup>5</sup>

William Penn's pacifism did not extend to complete non-resistance. He believed in obedience to political authority, but only to the point where his religious creed was threatened. He submitted to Caesar; but Caesar must, in turn, allow him to submit himself to God in his own way.<sup>6</sup> Though he never counseled the use of force to overthrow unjust measures or an unjust government, he vigorously opposed what he considered injustice. He repeatedly indicated his belief in the resistance to, and suppression of, vice.<sup>7</sup> If economic and social *laissez faire* be a concomitant to the Quaker doctrine of submission, Penn's paternalism accords but strangely with the tenets of his sect.

Though some of his writings give the impression that Penn was "a pious, contemplative man, a peace-loving Quaker," the reading of his controversial tracts hardly confirms such a view of him. His polemics reveal a belligerent spirit and an intemperance of expression quite in harmony with the prevailing tone of the furious and abusively intolerant disputation of the age.<sup>8</sup> An excellent illustration of his combativeness may be seen in the opening paragraphs of the early pamphlet *Truth Exalted*, where he challenged the "papists, whose popes for many hundred years have sat exalted in the hearts of nations (God's temple) above all that is called God," and the Anglicans, upon whom he showered epithets and

<sup>4</sup> *Works*, II, 787-788

<sup>5</sup> *Ibid.*, I, 312

<sup>6</sup> "Innocency with Her Open Face," *Works*, I, 270. "I have not violated any truly fundamental law which relates to external property and good behavior and not to religious apprehensions."

<sup>7</sup> For example, Penn to Turner, April 24, 1686, and Penn to the Council, 1686, Dreer Collection—William Penn's Letters, pp. 15, 18; Penn to Friends in Pennsylvania, Nov. 24, 1694, in "Inedited Letters of William Penn," Hist. Soc. of Pa., *Memoirs*, Vol. III, Part I, p. 288; Penn to Evans, Aug. 9, 1703, Penn MSS—Granville Penn Book, p. 7.

<sup>8</sup> Hull, *William Penn A Topical Biography*, pp. 137-154

charges of responsibility for a long list of evil practices, "with much more such-like dirty trash and foul superstition."<sup>9</sup> Most of his controversial pamphlets were written in early manhood, and it is, no doubt, unreasonable to expect a strong partisan in his twenties to show much tolerance. During the later decades of his life he indulged less frequently in controversy and declared on one occasion that he took part reluctantly in disputation. After he had achieved this stage, he perhaps might claim the calm, serene tolerance for the views of others so frequently ascribed to him. Yet far past this time he retained the will and spirit to defend his own rights and the privileges which he thought he had secured for his sect in Pennsylvania

Penn's most interesting exposition of his views on war and peace appears in the famous *Essay towards the Present and Future Peace of Europe*, first printed in 1693. For many years prior to the publication of this work, however, he had been indicating his opposition to war. Once, while in prison, this son of an admiral in the royal navy was asked to take oath that no one could legally resist by force of arms the will of the King. True to his Quaker principles, Penn refused to swear, with the statement: "I cannot fight against any man, much less against the King."<sup>10</sup> It is, of course, clear that this declaration could have referred only to warfare with carnal weapons. Before he had reached the age of thirty, Penn wrote to some Dutch Friends, denouncing the appeal to war as a means of winning relief from injustice. He urged his correspondents to trust in God and to "build not upon the justice of your cause, as ye conceive, neither let your expectation be from your navies, horses, chariots, and mighty men of war. . . ."<sup>11</sup> After the publication of the *Peace of Europe*, he continued on occasion to express his abhorrence of war. He declared in *Primitive Christianity Revived* that "love and persuasion" have "more force than weapons of war"; and he asserted: "Nor would the worst of men easily be brought to hurt those that they really think love them. 'Tis that love and patience must in the end have the

<sup>9</sup> *Works*, I, 242-243.

<sup>10</sup> Janney, *The Life of William Penn*, p. 81.

<sup>11</sup> Penn to "Friends and People of the United Netherlands," June, 1672, Letter Book, 1667-1675, p. 14.

victory.”<sup>12</sup> He wrote in the preface to Fox’s *Journal* in justification of the Friends’ attitude of “not fighting but suffering” that “if the costs and fruits of war were well considered, peace with its inconveniences is generally preferable.”<sup>13</sup> This remark reminds the reader of Franklin’s famous statement that war is wrong “in point of human prudence, for whatever advantage one nation would obtain from another, whether it be part of their territory, the liberty of commerce with them, free passage on their river, etc., it would be much cheaper to purchase such advantage with ready money, than to pay the expense of acquiring it by war.”<sup>14</sup> During his second sojourn in America Penn watched the gathering war clouds in Europe. He wrote to Governor Blakiston in the spring of 1700 of the rumor which had reached him “that the two northern Crowns had proclaimed war against each other, which I should be sorry for because the consequence may be the engaging of Christendom in a war, of which there have been at least enough already. . . .”<sup>15</sup> A month later he rejoiced because three ships had lately arrived from England with “no news, and that ever pleases me, for then we hear of no wars. . . .”<sup>16</sup>

Penn wrote to some Friends in 1691: “We are here [in England] in a troubled sea and almost ready to sink under the weight of wars, which fill poor Europe with misery and particularly Ireland and Flanders with desolation; and where things will pitch and when Christendom will have peace, God alone knows.”<sup>17</sup> Further reflection produced his celebrated plan for European peace, a program which a distinguished scholar has recently described as “the herald of the League of Nations two and a quarter centuries later.”<sup>18</sup>

The introductory section of the *Peace of Europe* lists some of the evils of war, for example: “The rich draw in their stock, the poor turn soldiers or thieves or starve: no industry, no building, no manufactory, little hospitality or charity; but what the peace

<sup>12</sup> *Works*, II, 874.

<sup>13</sup> Penn, “Preface,” to Fox, *The Journal of George Fox*, p. xii.

<sup>14</sup> Franklin, *Works*, X, 299.

<sup>15</sup> Penn to Blakiston, April 10, 1700, Letter Book, 1699-1701, p. 22.

<sup>16</sup> Penn to Winthrop, May 13, 1700, Letter Book, 1699-1701, p. 37.

<sup>17</sup> Penn to Friends, June 13, 1691, Dreer Collection—William Penn’s Letters, p. 37.

<sup>18</sup> Hull, *William Penn: A Topical Biography*, p. 162.

gave the war devours.”<sup>19</sup> In the letter to Blakiston mentioned above, Penn pointed out that if hostilities opened between England and Spain, colonial trade must suffer. Mindful only of the immense stimulus given to industry during the late World War, some may deny the accuracy of such assertions as applied to modern warfare; but those who see in the recent devastating depressions an unavoidable aftermath of 1914-1918 will be less ready to criticize. As a substitute for these evils Penn proposed justice, “the means of peace.” The observance of justice, he thought, would prevent strife between governments and between governors and governed. Wars to secure justice seemed to him remedies “almost ever worse than the disease, the aggressors seldom getting what they seek or performing, if they prevail, what they promised. . . .”

Men war usually, Penn believed, not to secure peace but to satisfy their own wills. “If we look over the stories of all times, we shall find the aggressors generally moved by ambition, the pride of conquest, and greatness of dominion more than right.” Three purposes, he said, caused the peace to be broken: “to keep, to recover, or to add.” By the first of these he meant “to keep what is one’s right from the invasion of an enemy.” This would, in his opinion, be a purely defensive war. “Secondly,” he said, war might be waged “to recover, when I think myself strong enough, that which by violence I or my ancestors have lost by the arms of a stronger power.” Such a struggle, he thought, would be an offensive war. Finally, armed conflict might be resorted to, he wrote, “to increase my dominion by the acquisition of my neighbor’s countries, as I find them weak and myself strong.” For such a war, he said, “there will never want some accident or other for a pretence; and, knowing my own strength, I will be my own judge and carver.” This purely predatory attack upon weaker neighbors, he declared, would “find no room in the imperial states [i.e. the united nations of Europe, organized as he suggested in a league of peace]; they are an unpassable [*sic*] limit to that ambition.” The other types of conflict seemed to him adjudicable: “the other two may come as soon as they please and find the justice of the sovereign court.”

Carrying further his analysis of the causes of war, Penn discussed

<sup>19</sup> *Peace of Europe*, p. 4.

the nature of titles or possession. "What is right?" he asked, "Or else we can never know what is wrong. . . ." Title, said he, giving examples, is either by "a long and undoubted succession," by election, by marriage, by purchase, or by conquest. Of these the last title only, said he, is "questionable." He went on to explain that the title by conquest "was engrossed and recorded by the point of the sword and in bloody characters." In practical manner he declared of such titles: "What cannot be controlled or resisted must be submitted to; but all the world knows the date of the length of such empires, and that they expire with the power of the possessor to defend them." But, he concluded, there might be some color of legality about possession by conquest. "And yet," he wrote, "there is a little allowed to conquest too, when it has the sanction of articles of peace to confirm it; though that hath not always extinguished the fire, but it lies, like embers and ashes, ready to kindle so soon as there is fit matter prepared for it. . . ." <sup>20</sup>

Penn's remarks on the causes of war and on the nature of titles indicate that he distinguished between different kinds of war. He clearly found no excuse for the third or purely predatory type. Such wars of aggression were entirely without any basis for adjudication in the international court which he had in mind. They must be totally suppressed. Taken in connection with other remarks in the essay, his comments with reference to "offensive" wars to regain lost territories or rights seem to indicate disapproval of such conflicts. These were wars of aggression. Whether he thought defensive wars justifiable is not so clear. He nowhere explicitly defends them. Yet if he did not mean to approve them, it is difficult to interpret his words that "war cannot in any sense be justified but upon wrongs received and right, upon complaint, refused . . ." His threefold differentiation of the various sorts of war seems to indicate that in his mind there was a substantial difference between the types mentioned. It must be noted, however, that he was aware of the danger of giving even qualified approval to defensive warfare, for he believed that warmakers habitually allege self-defense or the preservation of some high principle as the cause for which they fight. With regard to the exercise of force to insure public order or domestic tranquillity

<sup>20</sup> *Ibid.*, pp. 5, 8-9.

within the state, the case is somewhat clearer. As Shepherd has pointed out, Penn wrote to the Earl of Sunderland during his first visit to Pennsylvania, admitting, apparently, "the necessity and lawfulness of military force to support government and defend public and private rights against rebels and rioters."<sup>21</sup> Penn's plan for the peace of Europe, moreover, depended for its ultimate sanction upon "all the other sovereignties united as one strength," which should "compel the submission and performance of the sentence, with damages to the suffering party and charges to the sovereignties that obliged their submission."<sup>22</sup> Thus, like the famous Article XVI of the Covenant of the League of Nations, Penn's plan contemplated common action to force the submission of recalcitrant sovereigns to the group will. Unlike Article XVI, it left unspecified the means by which pressure should be brought to bear. Though the action taken might be costly, no mention was made of military measures. Penn thought, quite optimistically, that "Europe would quietly obtain the so much desired and needed peace to her harassed inhabitants, no sovereignty in Europe having the power and therefore cannot show the will to dispute the conclusion; and consequently peace would be procured and continued in Europe." The fact that he evidently had in mind expensive pressures or sanctions of some sort, however, would indicate that he envisaged war as an ultimate possibility. Armed strife may not necessarily develop from the application of international sanctions, but it is not made a more remote hazard by such measures. It seems reasonable, therefore, to conclude that Penn meant to approve certain possible wars; but in any case, his approval was cautious and reluctant, and nowhere did he clearly

<sup>21</sup> Shepherd, *History of Proprietary Government in Pennsylvania*, p. 504, note 2. Penn's words upon which this construction has been placed were as follows: "If the Crown itself disowns not the power of raising forces against subjects in rebellion, the proprietary of Maryland is more concerned to defend his fort against the King than we are to defend ourselves against his fort, which is plainly acting in the way of hostility against the subjects of our sovereign lord, the King." Penn to Sunderland, Aug. 8, 1684, *Hist. Soc. of Pa., Memoirs*, Vol. IV, Part I, p. 184. Some of the Quakers believed in defensive war. See Logan's views on this point as printed in *The Pennsylvania Magazine of History and Biography*, VI (1882), 403-411. See also Shepherd, *op. cit.*, p. 496, note 1.

<sup>22</sup> *Peace of Europe*, p. 8.



state that the exercise of armed force in international relationships is ever to be justified.<sup>23</sup>

Penn's reasons for wishing the peace of Europe are illuminating, for they illustrate not only the idealism but also the practicality of this Quaker statesman. The first reason cited was the prevention of "the spilling of so much human and Christian blood." The second was the redemption of Christianity in the eyes of the infidel. Next was the saving of money and the prevention of the discontent that commonly follows war. Peace would preserve "the towns, cities, and countries that might be laid waste by the rage of war." It would secure the safety and convenience of travel and trade. International peace would unite Christendom against the Turks. An international diet or congress would "beget and increase personal friendship between princes and states," and a greater development of the arts and learning would follow. Finally, the domestic relations of the princes would be improved, one result of which would be that they could "choose wives for themselves such as they love and not by proxy merely to gratify interest. . . ." <sup>24</sup> Modern pacifists have added a few arguments to these, such, for example, as the alleged moral decay that follows armed international conflict and the more sweeping generalization that another great war would destroy white civilization. With these exceptions, Penn expounded the chief stock arguments and added a few which are of lesser importance to an age not so greatly impressed by the teachings of dogmatic religion or the doctrines of a monarchist political science.

William Penn's remedy for the evils of war bears a striking resemblance to later proposals to guarantee the peace of the world.

<sup>23</sup> Hull, "William Penn and an Unarmed State," *Friends Intelligencer*, Vol. LXXXIX (1932), No. 43, p. 851, disagrees as to Penn's position with respect to defensive warfare. He says that in Pennsylvania the Founder and his associates "were wise enough, brave enough, and sufficiently sincere in their religious profession, to throw down their arms themselves and face the consequences. If God can really be counted on, they said, the consequences to an unarmed state will be what they ought to be; let us face them with serene fortitude" Pickard, writing to the editor of the same periodical under the heading "William Penn and Sanctions," *Friends Intelligencer*, Vol. LXXXIX (1932), No. 53, pp. 1060-1061, dissents from Dr. Hull's view.

<sup>24</sup> *Peace of Europe*, pp. 15-20.

His plan supposed the creation of an imperial parliament, diet, or congress, in which the sovereignties of Europe would be represented. This body would be composed of either seventy or ninety delegates, depending upon whether or not the Russians and Turks were admitted. The number of the delegates to be assigned to each member sovereignty, he thought, might be determined by estimating for each "the revenue of lands, the exports and entries at the custom houses, the books of rates, and surveys that are in all governments, to proportion taxes for the support of them." It is noteworthy that he did not select population as a basis for representation. On the whole, his scheme "to allow for the inequality of the princes and states" was vague; his exposition of it was correspondingly unsatisfactory. What he designed, he said, was "not by any computation an estimate from the revenue of the prince, but the value of the territory, the whole being concerned as well as the prince." Declaring cautiously that he pretended "to no manner of exactness" but went "wholly by guess, being but for example's sake," he suggested tentatively an apportionment of delegates for the various states of Europe. The Empire would have twelve representatives; France and Spain, each would have ten; Italy, eight; England, six; Sweden, Poland, and Holland, each four; Portugal, Denmark, and Venice, each three; Switzerland and "little neighboring sovereignties," two; the duchies of Holstein and Courland, one. If the Russians and the Turks were admitted—and he thought their admission "but fit and just"—they would in each case be represented by ten delegates. The members of the diet were to meet every year "or once in two or three years at farthest, or as they shall see cause." Before this "Sovereign or Imperial Diet, Parliament, or State of Europe," would be brought all "differences depending between one sovereign and another that cannot be made up by private embassies before the sessions begin." The judgments of this tribunal would be final, and, as has been noted, the member sovereigns would be bound to support its decisions.

The device, of course, was not a democratic scheme. The delegates at the diet represented not the people of the member states but the princes or the sovereigns. They were apportioned not according to the population of the various members but according

to "the value of the territory," estimated in a manner that was not made clear. No method was prescribed for their selection by the several sovereigns. Penn definitely expressed his belief in the inequality of "the princes and states" and thus rejected the Grotian notion that sovereigns are equal.<sup>25</sup>

The diet would take action only by vote of "three quarters of the whole, at least seven above the balance" for the reason, as Penn wrote, that "it helps to prevent treachery, because if money could ever be a temptation in such a court, it would cost a great deal of money to weigh down the wrong scale." Disputes about precedence were to be avoided at the sessions of the diet by the device of a circular assembly room with "divers doors to come in and go out at, to prevent exceptions." A system of presiding by turns was proposed, whereby "the whole number [of the delegates] be cast in tens, each choosing one." To prevent corruption, voting was to be by secret ballot, "after the prudent and commendable method of the Venetians."<sup>26</sup> Written journals "kept by a proper person" and duly examined and compared, were to be preserved "in a trunk or chest, which should have as many differing locks as there are tens in the states." The language in which the deliberations were to be held, Penn thought, "to be sure . . . must be in Latin or French; the first would be very well for civilians, but the last most easy for men of quality."

In the ninth section of the essay he set up four arguments against his plan and proceeded to refute them, at least to his own satisfaction. As he stated it, the first argument was "that the strongest and

<sup>25</sup> Later in the same paragraph, however, in which this statement by Penn appears, one may read "But it is not absolutely necessary there should be always so many persons to represent the larger sovereignties, for the votes may be given by one man of any sovereignty as well as by ten or twelve."

<sup>26</sup> Compare Harrington, *The Commonwealth of Oceana*, p. 64. Russell-Smith, *Harrington and His Oceana*, p. 38, says: "We know that in proposing the introduction of the ballot Harrington was chiefly inspired by the example of Venice, which was the only modern state for which he had a genuine admiration. The Venetian constitution, which boasted a longer life than any other in Christendom, aroused considerable interest in England at this time. In 1644 a number of members of Parliament had applied to the Venetian ambassador for an account of its institutions Raleigh and Howell, whose writings were widely read, were enthusiastic in its praise, and allusions to it in some form or other occur with great frequency in contemporary pamphlets." That Penn suggested the secret ballot for his diet would not be conclusive evidence, therefore, that he had been influenced by Harrington.

richest sovereignty will never agree to it, and if it should, there would be danger of corruption more than of force one time or other." His reply was that this "sovereignty" was "not stronger than all the rest, and for that reason you should promote this and compel him into it; especially before he be so, for then it will be too late to deal with such a one." Evidently this European concert was to be a league to enforce peace. He refuted the argument that corruption would be likely by the assertion that "if men of sense and honor and substance are chosen, they will either scorn the baseness or have wherewith to pay for the knavery; at least, they may be watched so that one may be a check upon the other and all prudently limited by the sovereignty they represent." Comment upon these naive suggestions seems almost unnecessary. Obviously, the question arises, among others: how would this strong "sovereignty" be forced or compelled into the concert if not at the last resort by superior military power, potential or exerted? One wonders, for example, how the European Allies of 1919-1921 would have compelled the United States to join the League of Nations. Moreover, one may ask, what would prevent knavery on the part of the principal who was so "prudently" to limit his agents. The second of Penn's straw men was "that it will endanger an effeminacy by such a disuse of the trade of soldiery that if there should be any need for it, upon any occasion, we should be at a loss as they were in Holland in '72." To this stock argument of the advocate of military preparedness Penn replied that education was the proper remedy; the threatened loss of virility should be met "by low living and due labor." As for the danger that military force be found inadequate in time of need, he argued—quite as does the modern pacifist—that preparedness does not prevent armed conflict: "the proposal answers for it itself. One has war no more than the other, and will be as much to seek upon occasion." Furthermore, he thought that "after such an empire is on foot," no nation need maintain such a military force as may endanger the rest. Finally, this pacifist suggested: "But a small force in every other sovereignty, as it is capable or accustomed to maintain, will certainly prevent that danger and vanquish any such fear." Each state, apparently, was to keep under arms a small force, perhaps in the nature of police. The third argument, "that there will be

great want of employment for younger brothers of families and that the poor must either turn soldiers or thieves," Penn thought he had answered by his "return to the second objection." Training by a government "solicitous of the education of their youth" would produce "more merchants and husbandmen, or ingenious naturalists." The fourth objection to the plan was "that sovereign princes and states will hereby become not sovereign, a thing they will never endure." This argument he flatly denied as to internal sovereignty: "for they remain as sovereign at home as ever they were. Neither their power over their people nor the usual revenue they pay them is diminished. . . ." As to external sovereignty he said: "And if this be called a lessening of their power, it must be only because the great fish can no longer eat up the little ones, and that each sovereignty is equally defended from injuries and disabled from committing them. . . ." <sup>27</sup>

According to Samuel M. Janney, this bold, if somewhat artless, attempt to guarantee the peace of Europe was presented by Penn to Queen Anne, though whether or not he ever showed it to others in authority is unknown.<sup>28</sup> Internal evidence indicates that it was written at some time after 1688, and it is commonly supposed to have been finished or even composed completely during Penn's time of "retirement" early in the reign of William and Mary. It is impossible to say to whom, if to anyone, he submitted the draft for criticism. Revision by a more critical mind might have resulted in a scheme characterized by less naïveté and more logical consistency. It was the work of an idealist rather than that of a responsible statesman. As such, it must properly be included in the long series of well-meaning, but thus far unsuccessful, attempts to rid the world of one of its worst curses.

If one of the most important desiderata in Penn's ideal society was peace, he did not restrict that term to the meaning usually implied by the pacifist, freedom from a state of armed conflict. He frequently used the word to signify the desirable absence of dis-

<sup>27</sup> *Peace of Europe*, pp. 8-15.

<sup>28</sup> Janney, *op. cit.*, p. 373. Copies of Penn's plan were presented to the peace conference at Paris in 1848 and to the members of the Second Conference at the Hague. Professor Hull, who prepared the edition for the Hague Conference, mentions substantial interest in Penn's plan by the Hague Court and the League of Nations Hull, *William Penn: A Topical Biography*, p. 162 and note 378

sension and quarrels, though, as has been noted earlier, his own career was full of stormy contention, and the wish to keep the peace did not often induce him to forego an argument. In his controversial writings against religious intolerance he used the desirability of peace to support his case. He listed the evil effects of religious persecution in a polemic written in 1671, and fourth among those effects he included the incitement of wars.<sup>29</sup> In *England's Present Interest* and in the *Persuasive to Moderation* he argued that the establishment of toleration would benefit society by the attainment of peace.<sup>30</sup>

The royal Charter granted Penn for the government of Pennsylvania conferred upon him all the powers of war, "as fully and freely as any captain-general of an army hath ever had the same." He was given power "to levy, muster, and train all sorts of men . . . and to pursue the enemies and robbers aforesaid, as well by sea as by land, even without the limits of the said province, and by God's assistance, to vanquish and take them, and being taken, to put them to death, by the laws of war, or to save them. . . ." <sup>31</sup> It might be inferred from such a sweeping grant of power that the English government would expect from Penn a corresponding measure of responsibility for the military defense of the colony. He, however, never wrote into his several constitutions any provision for military preparedness. The only safeguard of the colony was his conception of justice. This attitude brought upon him and upon his coreligionists much denunciation; they were charged with unwillingness to co-operate in imperial defense as well as with laxity and inability to check the piracy so common on the Delaware during the closing years of the seventeenth century.<sup>32</sup>

One of the charges levied against the proprietary government

<sup>29</sup> Penn, "The Arraignment and Judgment of that Cruel Spirit of Persecution," Letter Book, 1667-1675, p. 74.

<sup>30</sup> *Works*, I, 688-690; II, 727-749.

<sup>31</sup> Hazard, *Annals of Pennsylvania*, pp. 496-497.

<sup>32</sup> For a discussion of the problem of a militia in Pennsylvania, see Shepherd, *op. cit.*, chap. xii, pp. 495-501, 508-512, 522-539, Root, *The Relations of Pennsylvania and the British Government*, pp. 256-292; Channing, *A History of the United States*, II, 331-339. For a Quaker view see Jones, Sharpless, and Gummere, *The Quakers in the American Colonies*, pp. 490-491. See also Jernegan, *The American Colonies*, p. 335, for a brief discussion of the attitude of the later Quakers in Pennsylvania on "internal police protection."

of Pennsylvania by Colonel Robert Quarry, judge of the vice-admiralty court, in 1700 was that there was "neither any militia established, nor any provision made of arms or ammunition, but the country left defenceless, and exposed to all hazards both by land and sea, of which the representatives of the lower counties have several times complained to Mr. Penn, but without obtaining any redress."<sup>33</sup> Penn's lack of interest in militarism was supported by the Friends in New Jersey. In the same year Governor Hamilton of that colony attempted to persuade the assembly to vote a militia. He succeeded in establishing one company, but the opposition was so great that the detachment was soon disbanded. Some of this opposition came from the Anglicans, who hoped that the failure of the military policy would hasten the substitution of royal government in the colony.<sup>34</sup>

Penn's defense against the charges of Quarry and others bears in some respects the unsatisfactory character of any *tu quoque* argument.<sup>35</sup> But a more adequate statement of his position on the problem of a provincial militia appears in his instructions to Governor John Evans in 1703. The eleventh article of this document reads as follows:

And that nothing may lie at my door in reference to the defence of the country, so much the pretence and clamor of Q. [Quarry], M. [Moore] and their disaffected gang, know that thou art as amply empowered as any of my former lieutenants were, or myself if upon the spot. And that the commissions granted by Colonel Markham for a militia are still in being and should not be altered but to change some disaffected officers. But if Colonel Markham that was their colonel before remains so, he will model them for the best, knowing well and having had the handling of them all from the first of the colony....

This statement seems to be not only an acknowledgment of the military power vested in the proprietor by the royal Charter but

<sup>33</sup> An abstract of the "Informations" submitted by Quarry is printed in the Hist. Soc. of Pa., *Memoirs*, Vol. II, Part II, pp. 191-195, 202-203. Under the title of "An Abstract of Several Informations Relating to Irregular Proceedings and other Undue Practices in Pennsylvania," they are printed in the *Penn and Logan Correspondence*, I, 24-26.

<sup>34</sup> Shepherd, *op. cit.*, p. 508.

<sup>35</sup> Penn's defense is printed in a memorial published in the Hist. Soc. of Pa., *Memoirs*, Vol. III, Part I, pp. 289-291. A MS copy of Penn's reply, dated at London, March 13, 1703, is among the Logan Papers, III, 45.

also directions to carry on a military policy inaugurated under Markham and at least tacitly approved by Penn. Yet to save the situation for the Quakers, he added the following interesting directions and reflections:

But never consent to any law particularly upon [or concerning] raising, training and paying that may be penal or affect the persons or estates of Friends, that when they went and ventured themselves with me into America hoped to be rid of those encumbrances, else my own Friends and the originals of the colony will have the government turned against them.<sup>36</sup>

Penn thus told Evans that the conscientious scruples of the Quakers against military service must be respected. All that he could agree to was that those who "are desirous that a militia and a military defense may be raised, trained, and regulated as is customary may be gratified; but none that profess a conscientious tenderness therein compelled in person or purse or the worse used because thereof. . . ." It is apparent that Penn had not been prepared to make practical use of the powers conferred upon him as "any captain-general of an army" by the Charter of 1681. It is also evident that he regarded pacifism as one of those principles of religious faith which were fundamental to man and could not be violated by legislative act or royal edict. The pressure of events, however, sometimes forced him in this respect, as in others, into strange inconsistencies. In 1694 he accepted the restoration of his province at the hands of Queen Mary "upon the good assurance you have given to us," as the proclamation put it, "that you will take care of the government of our said province and country and provide for the safety and security thereof all that in you lies."<sup>37</sup> Two years and a half after this acceptance, he attempted to defeat the establishment of a quota for Pennsylvania on the ground that the Pennsylvanians must provide for their own defense. His argument seems to have been that, since certain Indians who had before been "upon their frontiers" were threatening to return the following summer, the Pennsylvanians would be unable to spare

<sup>36</sup> Penn to Evans, Aug. 9, 1703, Penn MSS—Granville Penn Book, p. 7.

<sup>37</sup> The royal proclamation restoring Pennsylvania to the Founder was dated Aug. 20, 1694. The copy from which the quotation in the text was taken is that in the Logan Papers, III, 2. As indicated later in the chapter, Penn denied that he had committed himself as far as the British authorities asserted that he had.



men for the imperial quota. Had he lost confidence in his ability to persuade the savages to peace?

Penn was obliged to steer a difficult course to keep his province free from war. Of most immediate danger to the province perhaps were the Indians, and his earlier letters to them seem to have been inspired largely by his desire for peace. He frequently fell into a religious vein when he wrote upon political subjects; but unless they were merely the result of habit, his introductory theological disquisitions in the letters to the Indians could hardly have been intended to serve any purpose other than to convince them of his peaceable intentions and to invoke their own dispositions to peace.<sup>38</sup> To the Indians he emphasized his desire "that we may always live together as neighbors and friends."<sup>39</sup> These letters have frequently been cited as evidence of Penn's fundamental benevolence and sense of justice; they have been less frequently considered in the light of what seems to have been the Quaker's larger purpose, the preservation of the peace of the colony.<sup>40</sup> It has been pointed out earlier that Penn wrote to the Board of Trade in 1700 that one phase of his Indian policy was the maintenance of the peace. In order to avoid war he suggested the establishment of a scheme whereby the native nations would regard the English governor of the territory in which they dwelled as umpire for their disputes.<sup>41</sup> Agreements with the Indians for such a purpose might appropriately be described as primarily reinsurance treaties against war. Penn's conduct toward the red men was motivated not only by an abstract love of justice and an innate benevolence but also by the practical object of preserving colonial peace, or at least of minimizing for Pennsylvania the evils of the great struggle between France and England.

In 1689 Penn's deputy, Governor Blackwell, moved perhaps by rumors that the Privy Council intended drastic action, tried to persuade the Pennsylvanians to provide a colonial militia. The

<sup>38</sup> Penn seemed to assume that the Indians would understand his simple pietism, and the event seemed to show that they at least comprehended his pacific intentions.

<sup>39</sup> Penn-Forbes Collection, I, 48 With some alterations in spelling this letter is printed in Hazard, *Annals of Pennsylvania*, pp. 532-533.

<sup>40</sup> See chap. iv of the present study.

<sup>41</sup> Penn to the Board of Trade, July 2, 1701, Letter Book, 1699-1701, p. 108.

Quakers blocked this attempt, maintaining that when the Charter had been granted to Penn, the views of his sect had been well known to the royal government.<sup>42</sup> Probably because it provided inadequately for purposes of colonial defense, the proprietary Charter was suspended in October, 1692; it was not restored until twenty-two months later. As has been pointed out, the royal proclamation by which the province was returned to Penn cited the want of provision for defense as a reason for suspending proprietary control and clearly intimated that Penn had purchased the restoration of Pennsylvania by making certain pledges. These pledges are not stated in the proclamation, but they do appear in the Journal of the Board of Trade, under date of July 13, 1694. On that date Penn went before the Board and made the promises referred to in the proclamation. He stated at that time, among other things, that he did not doubt that the legislature of Pennsylvania would yield obedience "to all such orders and directions as their Majesties shall from time to time think fit to send for the supplying such quotas of men or the defraying their part of such charges as their Majesties shall think necessary for the safety and preservation of their Majesties' dominions in that part of America."<sup>43</sup> Moreover, two weeks later, on July 27, he promised the Board of Trade that "if the government there [in Pennsylvania] shall not take all care that such orders as their Majesties shall think fit to give as afore-said be only complied with, he will then submit the direction of the military affairs to their Majesties' pleasure."<sup>44</sup> Three months before he had made the first of the pledges just indicated, the Board of Trade had agreed to recommend to the King that definitely specified quotas of men "be furnished by the rest of the colonies to the assistance of New York," among which quotas that of Pennsylvania had been set at eighty men.<sup>45</sup> There can, therefore, hardly be doubt that when his province was restored to him, Penn undertook for the legislature of his province a solemn engagement to participate in the provision of men and money for the

<sup>42</sup> Shepherd, *op. cit.*, p. 499.

<sup>43</sup> B.T.J., VII, 300. Sharpless, *A Quaker Experiment*, Part I, p. 192, calls Penn's statement "disingenuous." See also Channing, *op. cit.*, 331, note 1.

<sup>44</sup> B.T.J., VII, 305.

<sup>45</sup> B.T.J., VII, 187. This paging, however, is an error. The correct reading is pp. 287-288. The date of the entry is April 13, 1694.

defense not only of Pennsylvania but also of the other English dominions "in that part of America." Eight years later, however, according to the Journal of the Board of Trade, he denied that he had committed himself to the creation of a Pennsylvania militia, though he admitted his promise to attempt to aid in the defense of New York.<sup>46</sup> The exaction of such pledges from the Quaker indicates the seriousness with which the government of William and Mary regarded the defense of Pennsylvania and other colonies and the corresponding importance of the obligation which Penn had assumed in making his agreement about the military policy of the province.

He attempted to carry out his pledge to establish order in the administration of Pennsylvania, particularly with reference to the enforcement of the acts of trade and the suppression of piracy. These two matters took much of his time and energy during the second sojourn in America. Moreover, he laid before several successive sessions of the assembly a letter from the King requesting an appropriation for the defense of New York.<sup>47</sup> That body attempted to persuade the proprietor to declare himself with respect to the royal request for a military appropriation, but he refused to argue the matter in any form other than as a request from the Crown which the colonists were bound to honor. He declined to put into writing the remarks he had made orally in support of the King's letter.<sup>48</sup> In the midst of the bitter wrangle with the governor over a new charter, the assembly might have listened to a personal argument from Penn in favor of an appropriation for the defense

<sup>46</sup> B.T.J., XV, 58. Under date of June 1, 1702, the entry in the Journal reads in part as follows: "And whereas it was objected to him [Penn] that the government of Pennsylvania had been restored to him upon condition that he should settle a militia for the security of it, he absolutely denied that he ever made any promise to do so; But [*sic*] acknowledged that he promised to use his endeavors towards the procuring a quota of assistance for New York, which he did accordingly and succeeded in it."

<sup>47</sup> *Col. Rec.*, II, 28-35 (entries between Aug. 2 and Sept. 15, 1701).

<sup>48</sup> *Ibid.*, II, 28, 29 (entries for Aug. 4 and Aug. 5, 1701). Penn excused his refusal to put his speech into writing by saying "that his speech was only the King's letter; whatever was spoke besides was only to excuse their meeting at a time so little designed, and which he well knew was by no ways suitable to their domestic affairs; therefore thought it altogether superfluous to trouble them with any other." This answer, given on August 4, was not satisfactory to the assembly; so they renewed the request for a written statement, and on the following day Penn replied in much the same language.

of New York with no more docility than they showed with respect to the request from the King.<sup>49</sup> At any rate, the matter was dropped, and Penn failed at that time to induce the Pennsylvanians to live up to the agreement which he had made upon the restoration of his proprietary rights in July and August, 1694.

Had he carried out the latter part of the agreement, he would have resigned the military control of his colony to the royal government. Soon after his return to England in 1701 he began to negotiate with the Crown for the surrender of Pennsylvania, but it does not appear that his inability to persuade the assembly to provide for the defense of the province or of New York was a reason for his action. In the course of these protracted negotiations Penn insisted that no man in Pennsylvania be forced against his conscience to join or to support the militia.<sup>50</sup> His attitude on militarism in the final decade of his active life, in fact, is well illustrated by his letter to Harley complaining that his son, William Penn, had been given an appointment in Ireland as captain of a foot-company. "He shall go dig potatoes first," wrote Penn. "He is entitled to a better estate in that kingdom than to take up with so mean an employment. Besides, it was a civil employment he chose for him and promised him, showing his aversion to a military employment as well as myself."<sup>51</sup>

Though he emphasized the usefulness of the device for "civil matters, not military," Penn's plan of union of 1697 should be listed in any account of his efforts to guard Pennsylvania against war. The document plainly indicates that he felt under the necessity of considering defensive measures. If political considerations induced him to draw up this scheme, a most important factor must have been mutual protection.<sup>52</sup> His whole record makes it unlikely

<sup>49</sup> See the following entries for dates all falling in the period from Sept. 20 to Oct. 28, 1701, *Col. Rec.*, II, 37-62.

<sup>50</sup> See the "Copy of the Draught of a New Patent, upon the Granting of which Mr. Penn is willing to surrender the Government of Pennsylvania to Her Majesty," B.T.P., Vol. VIII, Part I, N 30, dated as received and read "23 May 1705." For a protest that Friends in America were being threatened with enforced violation of their conscientious principles, see Penn to Evans, May 15, 1707, Penn MSS—Penn Family to Logan, I, 34.

<sup>51</sup> Penn to Harley, July 14, 1706, Hist. MSS Com., 15th Report, App., Part IV, *Portland MSS*, p. 316.

<sup>52</sup> The plan of union of 1697 is discussed in detail in chap. IV of this study. The chief motive animating the draft of this plan appears to have been the desire to

that he would have suggested a plan to impose a quota for military purposes upon his coreligionists in Pennsylvania unless he had felt that his scheme was the lesser of two evils.

Penn's pacifism was the more marked because of his freedom from narrow racial or nationalistic prejudices. His colony, though apparently intended chiefly for English Quakers, was open to all. He advertised his lands in various countries of the Continent. Soon he had Dutch and German immigrants to augment the ranks of the original Swedes and Dutch among whom his English, Irish, and Welsh Quakers had come to settle.<sup>53</sup> Before his first departure from England for Pennsylvania, he wrote James Harrison with evident joy that "many flock in to be concerned with me." He declared: "I am like to have many [going to Pennsylvania] from France, some from Holland, and hear some Scotch will go for my country."<sup>54</sup> In the spring of 1686 he wrote to Thomas Lloyd reporting the emigration to Pennsylvania of some French viticulturists and urged his correspondent to "be curio [curious?] to please their people, for they have brought many professors to be concerned."<sup>55</sup> In another letter to Harrison, undated but evidently written after the revocation of the Edict of Nantes, Penn said: "Pray let the magistrates know that I much desire their kind usage of the French."<sup>56</sup> Immigrants continued to come to Pennsylvania, and the easy conditions as to religious beliefs brought in many who were oppressed in their own lands. In the summer of 1701 Penn told Logan of a project to sell land to some newly arrived Welsh immigrants, "divers of them rich and will want quan-

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settle the questions of defense satisfactorily to the Pennsylvanians, but other questions, no doubt, may have entered in. Perhaps Penn feared the development of centralized control in English America because it would mean centralized ecclesiastical control as well. Fearing such an eventuality, he may have thought to checkmate it by proposing a scheme to meet the military emergencies without including the ecclesiastical policy.

<sup>53</sup> Hull, *William Penn and the Dutch Quaker Migration to Pennsylvania*; Myers, *Immigration of the Irish Quakers into Pennsylvania*, pp. 42, 53-54, 111.

<sup>54</sup> Penn to Harrison, Aug. 25, 1681, Penn MSS, X, Dom. & Misc. Letters, p. 6. This letter, undated, is printed in Hazard, *Annals of Pennsylvania*, p. 523.

<sup>55</sup> Penn to Thomas Lloyd, April 21, 1686, Penn MSS, X, Dom. & Misc. Letters, p. 83.

<sup>56</sup> Penn to Harrison, undated, Penn MSS, X, Dom. & Misc. Letters, p. 28. Internal evidence shows that this letter was written after "the first of the first month, '86."

tities.”<sup>57</sup> He told Logan in 1706 that “the Germans press me, not for the thirty thousand acres in New Castle County but the Conestoga land. . . .”<sup>58</sup> About three years later he wrote his secretary about the prospective departure for Pennsylvania of some Palatine Germans, who in religion were “minonists” and, like the English Quakers, disbelieved in war. These immigrants he urged Logan to “use with tenderness and love, and fix them so as they may send over an agreeable character.”<sup>59</sup> Penn’s desire to people his country, no doubt, made him hospitable to all nations of Europe. His various missionary journeys to the Continent, added to a literal acceptance of certain Scriptural teachings, must have contributed to the development in his complex nature of a strong vein of cosmopolitanism. Even in times of war his comments on enemy nationalities—so far as available evidence shows—were never harsh, vengeful, or bitter. His letters describing his own losses at the hands of French warships show neither hatred nor even resentment towards the Frenchmen.<sup>60</sup> Writing to the Lords Justices of Ireland in 1698, he did express some critical views of the Irish; but the criticism was mild, not unfriendly, and not applicable to the nation as a whole.<sup>61</sup> There is no doubt that his sympathies were wide and genuine and did not stop at the lines of race or nationality.

The pacifism of William Penn was the result of deep conviction. Like other elements in his Quaker faith, it was one of the essentials for which he contended to the last in the negotiations over the surrender of his province to the Crown. He would not himself take part in war or suffer his Quaker sectaries to be forced into military service against their will. On the other hand, he was a practical man of the world. He did not often literally adhere to the doctrine he sometimes preached, nonresistance to evil. He refused to submit to what he considered injustice to himself or to the oppression of the people of his faith. He insisted, often belligerently, upon what he considered his rights. If he believed in turn-

<sup>57</sup> Penn to Logan, Sept. 8, 1701, Penn MSS—Penn Family to Logan, I, 53.

<sup>58</sup> Same to same, March 2, 1706, Penn MSS—Penn Family to Logan, I, 31.

<sup>59</sup> Same to same, June 26, 1709, Penn MSS—Penn Family to Logan, I, 46.

<sup>60</sup> Penn to Turner, Oct. 4, 1689, Dreer Collection—William Penn’s Letters, p. 30; Penn to Logan, Feb. 24, 1702/3, and Aug. 27, 1703, *Penn and Logan Correspondence*, I, 166, 169, 205; same to same, Jan. 16, 1704/5, Logan Papers, I, 56.

<sup>61</sup> Penn to the Lords Justices of Ireland, July 1, 1698, Penn-Forbes Collection, I, 52.

ing the other cheek, he did not follow the policy in his many verbal or literary contests about theological differences. Moreover, he constantly urged his deputies in Pennsylvania to stand up for their rights. He realized that letters full of benevolence and the Christian spirit were not always sufficient to control beyond peradventure the savage nature, either of red man or of white. He felt the necessity of adopting practical measures to reinforce the Christian sentiments which he thought should rule the affairs of men. Though he did not explicitly declare that a nation might rightfully wage defensive warfare, he indicated strongly on one occasion, and hinted on at least one other, that for some causes such warfare would be just. He apparently approved of lawful force exerted by constituted government. His plan for a union of the colonies certainly contemplated the eventuality of defensive war and made stated preparations for military action. Being a pragmatist in the field of international relations, he knew that war had been a human activity since time immemorial, and he saw no way of abolishing it, short of uniting the great nations of Europe against it. His league of European sovereigns involved the use of international pressures to enforce peace; it was no toothless agreement full of benign expressions with no sanctions to make its purposes effective. Though Penn did not describe the means by which the united will should compel a recalcitrant power to submit, it may be supposed that he did not mean the use of force except as a last resort. Nothing, however, appears in his plan to indicate whether the united will of the sovereigns was to stop short of war or of the use of force—if need be—to compel compliance. Penn's plan may have meant a "war to end war."

## Chapter VI

### CRUSADER FOR RELIGIOUS TOLERATION

*Religion, as it is the noblest end of man's life, so it were the best bond of human society, provided man did not err in the meaning of that excellent word.*

*A third great cause of persecution for religion is this, that men make too many things necessary to be believed to salvation and communion. Persecution entered with creed-making ..*

*To be furious in religion is to be irreligiously religious.*

*In short, force makes hypocrites, 't is persuasion only that makes converts*

*.. God hates persecution ..*

—WILLIAM PENN

FROM early manhood William Penn was a determined opponent of religious persecution. He set down in his fragmentary autobiography an account of his interest in the sufferings of the Quakers for conscience sake. Almost at the outset of his career as a Friend he composed such protests as that, for example, to the Earl of Orrery in Ireland.<sup>1</sup> He wrote, at the age of twenty-five, to the Earl of Arlington, beseeching him "to entreat the King on my account not to believe every man to be his enemy that cannot shape his conscience by the narrow form and prescripts of men's inventions. . . ." <sup>2</sup> He drafted a letter in 1670 to the persecuting vice-chancellor of Oxford against "the multiplied oppressions which thou [i.e., the vice-chancellor] continuest to heap upon innocent English people. . . ." <sup>3</sup> He threatened the wrath of the Almighty upon the oppressors, and demanded whether such

<sup>1</sup> The autobiography is printed under the title of "Fragments of an Apology for Himself," Hist Soc of Pa., *Memoirs*, Vol III, Part II, pp. 233-242. See also Webb, *The Penns & Peningtons*, pp. 174-181. For a copy of Penn's letter of 1667 to the Earl of Orrery, see Letter Book, 1667-1675, pp. 166-167. This letter is printed in Janney, *The Life of William Penn*, pp. 24-25.

<sup>2</sup> Penn to Arlington, March 5, 1669, Letter Book, 1667-1675, p. 18.

<sup>3</sup> Penn to P. M., Vice-Chancellor of Oxford, November, 1670, Letter Book, 1667-1675, pp. 11-12. This letter is printed in *Works*, I, 154-155.



persecution were "according to the gospel and precepts and practice of the patient, suffering Lamb of God. . . ." He was the author during the following year of a tract entitled "The Arraignment and Judgment of that Cruel Spirit of Persecution with a Brief Discovery of the Cause, Effects, and End of It."<sup>4</sup> He here denounced persecution as a work of the devil and as contrary to the Scriptures. The laws against dissenters struck "at the very foundation of our English laws and government." He joined with others during April, 1671, to draw up a protest to the "High Court of Parliament" which attacked the act against seditious sectaries.<sup>5</sup> The authors declared themselves unable to obey laws that denied to them the right to worship as they pleased, but professed willingness to "yield obedience to every ordinance of man relating to human affairs and that for conscience's sake." These protests were written before Penn was thirty years old.

For Penn the following decade was replete with vigorous protest against persecution for nonconformity in religion. His strenuous efforts in behalf of oppressed minorities were not exhausted in the defense of English Quakers but extended to the championship of similar groups on the Continent. For example, he wrote in 1674 a letter to the authorities of the city of Emden to protest against the mistreatment of dissenters there.<sup>6</sup> He appealed to the King of Poland to accord toleration to the inhabitants of Danzig.<sup>7</sup> He besought the Elector Palatine to put a stop to the persecution of the Friends of Krisheim by local officials, suggested to him the wisdom of a policy of toleration to attract to his dominions groups from other countries, and urged him to inculcate into the mind of his son and presumptive successor the advisability of continuing such a policy.<sup>8</sup> A few years later he appealed to the Prince of Orange in behalf of the Friends of Krefeld.<sup>9</sup> Persecution, he wrote, was inconsistent with the denunciation by Protestants of papist intolerance. "God and Caesar," he declared, "divide the man; faith and worship belong to God, civil obedience and tribute to Caesar." During this period he issued in behalf of toleration

<sup>4</sup> Letter Book, 1667-1675, pp. 70-79.

<sup>5</sup> *Ibid.*, p. 13.

<sup>7</sup> *Ibid.*, pp. 56-58.

<sup>6</sup> *Works*, I, 609-611.

<sup>8</sup> *Ibid.*, pp. 74-76.

<sup>9</sup> Hull, *William Penn and the Dutch Quaker Migration to Pennsylvania*, pp. 203-204.

such important appeals as his *Summons, or Call to Christendom*,<sup>10</sup> his *Address to Protestants*,<sup>11</sup> and his *England's Great Interest in the Choice of This New Parliament*.<sup>12</sup>

Even in this earlier period, Penn did not confine his efforts on behalf of toleration to oral and written attacks upon persecutors and appeals to sovereigns in defense of the persecuted. He drafted, perhaps in his thirtieth year, a proposal to repeal the penal laws. The preamble to this "Bill of Tolleration," which may be read in his early Letter Book,<sup>13</sup> recites the happiness of the country during the period when "the government and ancient laws of this kingdom...continued to consider the preserving of property as a fundamental of government." Following this introductory section is "another form of bill for the better preserving and maintaining English property, being the true foundation of English government." Penn proposed in this document to exempt dissenters from the operation of the penal laws on condition that they "solemnly, and as in God's presence," should repeat and subscribe a declaration of independence from the Church of Rome and of detestation and abhorrence of the theory that the pope could absolve Englishmen from their allegiance to the King. Obviously, this proposal was not designed to rescue the Roman Catholics from the disabilities then visited upon them by the law.<sup>14</sup> It was but a cautious and incomplete toleration which Penn thus outlined. While the declaration did not commit the subscriber to support an established church, it did bind him to uphold the English government, "as established by law." An Erastian might have read into such doctrine loyal adherence to the Anglican Church. The present writer is unable to state whether or not Penn consulted others in the drafting of this document or whether he ever submitted it to a member of Parliament or to anyone else in authority.

<sup>10</sup> *Works*, I, 187-198.

<sup>11</sup> *Ibid.*, pp. 717-818.

<sup>12</sup> *Ibid.*, II, 678-682.

<sup>13</sup> Letter Book, 1667-1675, pp 123-124.

<sup>14</sup> The declaration of allegiance proposed by Penn read as follows: "I (AB) do hereby declare that I have no dependence upon the Bishop or Pope of Rome, nor any other prince or power on earth, than that . . . of England according to law; that I do detest and abhor that wicked position that any pope can absolve me of my due allegiance to the King and government of England, and I do promise by God's assistance to live a sober, peaceable, and industrious life under the present government, as established by law..."

Penn issued anonymously in 1672 or 1673 his *Proposed Comprehension, Soberly and Not Unseasonably Considered*.<sup>15</sup> His idea may have been the old dream of a union of English Protestants in a single Church of England based on complete liberty of conscience; but he does not clearly develop such a thought. He asked in this document: "What ground can there be why some, and not all, should be tolerated?" He asserted that God was impartial in the distribution of His blessings. The "rain falls alike both upon the just and the unjust." Christians enjoy no privileges in nature that do not also belong to unbelievers. God's universal goodness is the unanswerable argument for universal brotherhood and toleration among men, His children and servants. "Let reason qualify zeal," wrote Penn, "and conscience opinion." In *England's Present Interest*, published in 1675, Penn reiterated his devotion to "a sincere promotion of general and practical religion," defined in the broad terms used by the Apostle James.<sup>16</sup>

In the controversy of 1673, following the Parliamentary reaction to the royal Declaration of Indulgence, Penn defended what the members of the legislature had thought "an undue extension of the King's prerogative." In behalf of toleration the young Quaker argued that magistrates should be given discretion as to how they arrived at "the main end, which is *voluntas magistris, salusque regis et populi*."<sup>17</sup> He set forth on this occasion the assumption, basic in his reasoning at other times, that the English Parliament was not sovereign and that the King might set aside what Penn termed but a "temporary" law. In eight or nine years he was to draw up the famous preface to the First Frame of Government for Pennsylvania; to abandon, in so doing, any evident reverence for royal or gubernatorial prerogative; and to give expression to sentiments comparable to those proclaimed by democratic theorists of the following century. Less than a decade after the promulgation of this document he again took up the cudgels for the right of the King to suspend the laws of Parliament. The student of practical

<sup>15</sup> *Works*, II, 186-188. For a discussion of this document, see Hull, *Eight First Biographies of William Penn*, pp. 48-49. See also Hull, *William Penn: A Topical Biography*, p. 82.

<sup>16</sup> *Works*, I, 701.

<sup>17</sup> Penn to J. H. and His Companions, March 31, 1674, *Letter Book, 1667-1675*, pp. 144-150.

politics will note the obvious inconsistency in method and the equally obvious consistency in purpose. Penn pursued the single end of toleration, particularly for the oppressed Quakers. Toleration was to be had in England by arbitrarily overruling the will of Parliament; it was to be guarded in Pennsylvania by laying down idealistic principles flavored by a liberalism more characteristic of the later eighteenth century than of the age in which he lived. It should be noted, however, that after the accession of William and Mary toleration of a restricted sort was established in England; and it was established not by arbitrary ruling of the King but by act of Parliament.<sup>18</sup>

The "holy experiment" is conclusive evidence that Penn was willing to undergo unstinted sacrifice for the ideal of toleration for his coreligionists. His instructions to his deputies in Pennsylvania repeatedly urge upon them the need to quell religious disputes. He requested Blackwell, for example, to suppress "feuds between persuasions."<sup>19</sup> He instructed Evans, fourteen years later: "That thou usest thy utmost endeavors to qualify things and make the people easy under their differing persuasions and interests, both by wisdom and authority."<sup>20</sup> Finally, in his long negotiations with the Crown about the surrender of his rights in Pennsylvania, Penn insisted throughout that one of the conditions of the transfer must be toleration in that province for the Quakers. By the close of his active life he had reached an agreement with the officers of the Crown for the relinquishment of his proprietary Charter, but his several seizures and consequent mental incapacity terminated the project.<sup>21</sup> His demands had decreased in their

<sup>18</sup> Gwatkin, "Religious Toleration in England," *The Cambridge Modern History*, V, 336. Hull, *William Penn A Topical Biography*, pp. 154, 215 and note 466, thinks that Penn was largely responsible, through his "political and literary efforts," for the so-called Toleration Act of May 24, 1689. Ranke, *Englische Geschichte vornehmlich im sechzehnten und siebzehnten Jahrhundert*, VI [*Sammtliche Werke*, 3d ed., XIX], 324, says that the Quakers were admitted with hesitation to the benefits of this act because of their heterodox doctrines regarding the Trinity, but that it was feared that if they were not included, they would support James II. Their wealth, it was thought, made them a danger in such a contingency.

<sup>19</sup> Penn, "Instructions for Lieutenant Governor Blackwell, or whom else it may concern," Nov. 25, 1689, Penn-Forbes Collection, I, 10

<sup>20</sup> Penn to Evans, Aug. 9, 1703, Penn MSS—Granville Penn Book, p. 7.

<sup>21</sup> See Hannah Penn's postscript, dated Oct 13, 1712, to Penn's letter to Logan, dated nine days earlier, Penn MSS—Penn Family to Logan, I, 50.

range as the years dragged on. The terms accepted at the close of the negotiations were not those which he could have wished, though in the pathetic last letter to Logan he intimated that, had he been heeded, the Friends might even then have had suitable guarantees.<sup>22</sup>

Penn proposed in the early stages of these negotiations that in surrendering his charter rights of government he should, nevertheless, retain the power of nominating two persons, one of whom the Queen must appoint as governor of Pennsylvania. When questioned before the Board of Trade about the reason for this reservation, he replied "that the peculiar circumstances of the people of that country made it necessary for him to insist upon such special savings to secure their civil as well as religious rights against the hardships that may be put upon them by a future governor. . . ." <sup>23</sup> He stated at the opening of 1705 that he would accept an arrangement for the surrender of Pennsylvania to the Crown on the conditions that he and his successors be "exempted from troublesome offices and the public taxes; and that the inhabitants may have their entire liberty of conscience and be continued as capable and eligible to any civil employments as hitherto they have been, the people called Quakers especially. . . ." <sup>24</sup> The Board considered these stipulations too vague and called upon Penn to define his meaning.<sup>25</sup> He replied that by liberty of conscience he meant "not only that relating to worship, but to education or schools, a coercive ministerial maintainance [of] the militia." He stated that he wished the Quakers to "be capable of any civil employment but governor, taking the legal affirmation of the country according to custom, from counsellor to constable, as they have been from the beginning." <sup>26</sup> Toleration meant to Penn freedom from interference with religious worship and exercises and exemption from civil disabilities on account of religion.

Penn was fertile in proposing means of guaranteeing toleration in Pennsylvania, as he had been earlier in suggesting similar safe-

<sup>22</sup> Penn to Logan, Oct. 4, 1712, Penn MSS—Penn Family to Logan, I, 50.

<sup>23</sup> B.T.J., XVI, 170-171 (entry for July 1, 1703).

<sup>24</sup> B.T.P., Vol. VIII, Part I, N 1 (communication dated Jan. 2, 1704/5).

<sup>25</sup> B.T.J., XVII, 230-231 (entry for Jan. 10, 1704/5).

<sup>26</sup> B.T.P., Vol. VIII, Part 1, N 1 (dated Jan. 11, 1704/5, marked as received and read Jan. 12, 1704/5).

guards in England. Among the papers of the Board of Trade, endorsed as having been received and read on May 23, 1705, is a "Copy of the Draft of a New Patent, upon the Granting of Which Mr. Penn is Willing to Surrender the Government of Pennsylvania to Her Majesty." <sup>27</sup> This document proposed that the powers of "laying, imposing, and raising public taxes and contributions for erecting, repairing, and maintaining places for religious worship, schools, and other public buildings, as also for maintaining or paying preachers, ministers, and teachers in religious assemblies and schools—excepting only such contributions as shall be freely and voluntarily made . . ." should be vested in the governor or deputy governor and the general assembly. Such a provision would indicate an established church or churches, but a qualification is appended, providing "that no person or persons shall be bound by the act or acts, vote or votes of any majority, but only by his, her, or their own free consent." Moreover, it was provided that any individual or group might maintain places for religious worship or provide for the education of children at private expense. It was, likewise, required by this draft that no governor, deputy governor, or legislative body was to have the power "to defeat, abridge, or lessen the liberty of conscience and free use and employing of persons and places for religious worship and discipline, and of schools and persons for the instructing of children and youth now settled, allowed, or enjoyed within the said province." Those who scrupled to take oaths were not to be denied any civil right or privilege if they took "such or the like solemn affirmation and legal assurance as is now required by the law of the said province." Quakers were to be subjected to no fines or mistreatment for their faith and were, particularly, not to be compelled to serve in the militia. This draft is freely underlined and in the marginal notes appear comments which are definitely unfriendly to certain of the provisions.

There is no extant evidence that Penn drafted this document, and it may have been submitted to him by the Board as a tentative proposal in the negotiations. On the other hand, it may have been a summary of his demands, drawn up by a secretary in the form of minutes following a session of the Board. From the record, how-

<sup>27</sup> B.T.P., Vol. VIII, Part I, N 30.

ever, it seems to indicate what Penn would have accepted in the spring of 1705. The most striking provision of the document is the proposal to grant power to governor, deputy governor, and legislature to establish a church for the province, subject, of course, to the important restriction that no one need be bound by such an establishment against his will. Other religious foundations would be tolerated but would not have state support. Such an arrangement would be a compromise between an establishment like that of England and the complete divorce of church and state now obtaining in the United States. One is tempted to wonder why Penn countenanced even this degree of connection between church and state. Perhaps he thought that only by this apparent concession could he win the support of the Board of Trade. He must have known that under this plan of 1705 any establishment, if free from interference from England, would necessarily have been a Quaker establishment. An entry in the Journal for June 8, 1705, shows that Penn's proposals were not acceptable to the Board—particularly those relating to liberty of conscience.<sup>28</sup>

Penn was ready by the following September with another scheme for the protection of the Quakers in Pennsylvania in the event of his surrender of the proprietary rights of government. This proposal comprised six heads: confirmation of the constitution and laws of Pennsylvania, if not objectionable to the attorney-general; "liberty of conscience both as to faith, worship, and discipline, and by public and private meetings relating thereunto, when and where they please in their own houses or places built or to be built for that purpose by them"; "liberty for our own education by schools of our own and such masters, mistresses, and ushers as we shall appoint"; recognition of the validity of marriages celebrated in the Quaker way; exemption "from forced maintenance to any clergy whatsoever and from building and repairing any meeting house or houses for religious worship under any name or pretence whatsoever"; exemption from "militia service and charges thereof, so as we watch and ward in times of trouble."<sup>29</sup>

If Penn's demands grew more modest as the negotiations pro-

<sup>28</sup> B.T.J., XVII, 401-402 (entry for June 8, 1705).

<sup>29</sup> B.T.P., Vol. VIII, Part I, N 42 (marked as received and read Sept. 1, 1705).

ceeded, it can hardly be doubted that this development was caused rather by the political necessity of compromise with the Anglican authorities in England than by any fundamental change in Penn's own philosophy. The view has been advanced that Penn at first was playing a game of politics with the object of bending the provincial legislature to his will, that the advertised intention of transferring his political rights to the Crown was "a threat held over the provincial government in the hope of forcing or frightening its discordant factions into good or endurable behavior."<sup>30</sup> If this view be correct, conclusions about Penn's theories on religious toleration as advanced in the course of the bargaining would, of course, be open to question. Though there can hardly be any doubt that during the period of these negotiations the Founder was often out of patience with an important faction in his province, the basic guarantees which he sought from the English government to protect the religious persuasion of the Quakers were certainly in accord with the views of those in Pennsylvania who seemed on other grounds to be opposed to him. It is more than likely that his proposals represented his own reasoned convictions.

On the two assumptions that Penn was sincere and that the statement of May 23, 1705, as outlined above, presented his views, it can be said that he set forth in that document as adequate a definition as we have of his opinion about the best relations then attainable between church and state in an English province. Political pluralism is evident in these views. His theory would have brought into serious question what are now commonly regarded as sovereign powers of the body politic. Complete freedom of conscience in religious matters would have been established, but Penn would have destroyed public control over education and deprived the state of the power to compel military service or even to levy contributions for military purposes.

The philosophy deducible from the communication of May 23, 1705, is contradicted in some particulars by earlier writings of Penn. For example, he wrote in *Just Measures*,<sup>31</sup> printed in 1695, that there was a "liberty that we are to resign to the benefit of

<sup>30</sup> Buell, *William Penn*, p. 314.

<sup>31</sup> *Works*, II, 774-778.



society." He declared: "I am as much for liberty as any man. I ever was so, and hope I shall ever be for it; but we must refer it to a proper object, or we shall abuse what we do so much prize, and pervert one of the greatest privileges we can pretend to." He distinguished between those things in which society had an interest and those things "about which society is not in the least concerned." It is difficult to see how society could not be concerned in such matters as the education of children or the defense of the state. On the other hand, Penn's views accord well with traditional English and American ideas of individual liberty. He insisted that "so as there be no excess," certain private and personal liberties existed which ought not be the subject of interference from the state. "What is it to the society," he asked, "what or when I eat, what sort of clothing I wear, or house I live in, or trade I will be of, so as excess or uncomeliness be avoided?" More important, no doubt, in his mind was the contention that liberty of conscience could not be surrendered to the state. "we do also all agree that faith must not be forced, nor worship constrained, for that grates upon conscience, which God only can effectually enlighten or rightly persuade."<sup>32</sup> Penn, therefore, in 1695 believed in qualified liberty. There were matters of general concern which ought to be the care of the state. Twelve or thirteen years later he denied a place among such matters to education and defense, if these functions were to involve the exercise of governmental compulsion upon unwilling citizens or subjects of the realm.

Penn's *Persuasive to Moderation*,<sup>33</sup> a treatise presented to the King in 1686, sets forth some interesting qualifications of the theory that conscience should be untrammelled. That such a thing as conscience existed, he said, "must not be denied, even by those that are most scandalized at the ill use some seem to have made of such pretences. . . ." Conscience he understood to be "the apprehension and persuasion a man has of his duty to God." He defined

<sup>32</sup> It should be noted that *Just Measures* was written as an argument for discipline in the government of the church, i.e., the Society of Friends. Penn set forth in this tract his objection to conformity enforced as to matters of faith but his willingness to insist upon conformity in matters of discipline. He wished particularly to allay the dissatisfaction among some of the Quakers on the subject of separate meetings for women.

<sup>33</sup> *Works*, II, 727-749.

liberty of conscience as "a free and open profession and exercise of that duty, especially in worship"; but he added a qualification: "I always premise this conscience to keep within the bounds of morality and that it be neither frantic nor mischievous, but a good subject, a good child, a good servant in all the affairs of life; as exact to yield to Caesar the things that are Caesar's as jealous of withholding from God the thing that is God's." This qualification, like other statements of Penn, is so charged with ambiguity that its precise meaning would be difficult of determination. Interpreted in one sense, it would well accord with the Quaker doctrine of submission to the state in all things not relating to religious persuasion. To a militarist it would be meaningless: no good subject could be a conscientious objector to service in the armed forces of the nation. But this tract was presented to James II; and one may perhaps question whether in thus defining his views Penn was influenced by no motive other than the simple desire to state his convictions. To what extent can one inspired by the inner light foredoom his conscience to be "but a good subject, a good child, a good servant," even in all the affairs of this life, particularly when those affairs are likely to be regulated by a government so arbitrary and despotic as that of James II? Penn went on to define toleration as an "admission of dissenting worships, with impunity to the dissenters." This definition supposes, of course, an established church, or at least a religious body favored in some way above dissenters but having no power to punish them. A thoroughgoing libertarian of the present day would be as little satisfied under such a regime as he would be if possessed of a conscience that was obliged to keep "within the bounds of morality" as externally defined.

"Religion," Penn wrote in his maxims, "is the fear of God and its demonstration good works; and faith is the root of both. . . ." <sup>84</sup> Earlier he had written that "as it is the noblest end of man's life, so it were the best bond of human society, provided men did not err in the meaning of that excellent word." <sup>85</sup> Experi-

<sup>84</sup> For this and other maxims on "Religion," see Penn, *Fruits of Solitude*, pp. 61 ff. Many of these maxims have been assembled in an unsigned article entitled "William Penn on Religion" in *Friends Intelligencer*, Vol. LXXXIX (1932), No. 43, p. 847.

<sup>85</sup> "One Project for the Good of England," *Works*, II, 682.

ence, however, had shown, he thought, that religion is too frequently resolved into "opinion and form; in which, not the text, but the comment too often prevails. . . ." As a result, instead of adhering to the true religion, men become "miserably distracted in favor of their adopted notions, upon which they are impatient to bestow an earthly crown." This remark may sound like the dictum of an authoritarian Churchman, but Penn continued in the more familiar strain. The triumph of one opinion over others, he said, shakes society, causes revolutions in civil government; and, considering "the fury and unnaturalness of some people for religion (which shows they have none that's true, religion making men most natural as well as divine), we have reason to bewail the misunderstanding as well as misliving of that venerable word." He seems by 1679 to have abandoned hope of any immediate "comprehension" based upon a general agreement as to the essentials of a religion, for he went on to assert that such harmony of opinion was impossible because of the difficulty of disabusing men of "their wrong apprehensions of religion." To settle the matter, he thought it necessary to "recur to some lower but true principle for the present. . . ." This principle he found in the doctrine that "civil interest is the foundation and end of civil government; and where it is not maintained entire, the government must needs decline." If his reasoning lacks consistency, clarity, or logical cogency at times, it should be remembered that he frequently wrote less as a philosopher or theologian than as a politician or statesman endeavoring to persuade those in authority to act for the relief of his oppressed coreligionists. At all events, it cannot be denied that his position was much closer to that of the modern world than was the point of view defended by his adversaries.

Penn set forth a number of arguments to support a policy of religious toleration.<sup>36</sup> One of these was the contention that persecution resulted in confusion in the country, involved large ex-

<sup>36</sup> Harrington blamed the pope for religious intolerance, "a pedantism that hath made the sword to be a rod in the hands of schoolmasters; by which means, whereas Christian religion is the farthest of any from countenancing war, there never was a war of religion but since Christianity. . . ." *The Commonwealth of Oceana*, p. 38. Penn took the broader view that the source of the trouble lay more deeply imbedded in human nature.

penses, ruined trade, and produced swarms of destitute people. These assertions, appealing to the economic sensibilities of his readers, were incorporated in the pamphlet *England's Present Interest*.<sup>37</sup> At about the same time, in a petition to the King and Parliament, he followed up this argument, emphasizing strongly the sufferings inflicted upon the Quakers.<sup>38</sup>

Penn argued that intolerance was contrary to reason.<sup>39</sup> To sacrifice the liberty and property of a man for religious causes would not win the loyalty of that man for the prince. Enforced conversion, he thought, resembled forced marriage. "In short, force makes hypocrites; 't is persuasion only that makes converts." <sup>40</sup> He wrote in his *Good Advice to the Church of England* that those who establish penalties for nonconformity in religion "insnare their own posterity that may be of another mind, and forfeit by it the estates they have so carefully transmitted to them." <sup>41</sup> Persecution not only fails of its purpose but endangers the interests of those who employ it.

One of Penn's most emphatically stated arguments against religious intolerance was the contention that it was contrary to the English constitution, "those freedoms to which we are entitled by English birthright." <sup>42</sup> As early as his imprisonment prior to the famous Penn-Mead trial in 1670, he based his protest against such treatment on the "fundamental laws of England," as his "birthright and inheritance and as the immutable foundation of the English constitution in point of government." Incarceration "for any act of religious worship, or that is the necessary adjunct of the same" he called "destructive of the Great Charter that considers us not as of this or that persuasion in matters of religion, in order to the obtaining of our ancient rights and privileges, but as Englishmen." <sup>43</sup> Later, he wrote that he found in the Great Charter "not the least mention made therein of the necessity of our conforming to any kind of religion in order to enjoy the benefit

<sup>37</sup> *Works*, I, 672-705.

<sup>38</sup> "The Continued Cry of the Oppressed," *Works*, I, 705-710

<sup>39</sup> See "The Great Case of Liberty of Conscience," *Works*, I, 443-467.

<sup>40</sup> *Works*, I, 693.

<sup>41</sup> *Ibid.*, II, 757.

<sup>42</sup> *Ibid.*, I, 443.

<sup>43</sup> Penn, "The Exceptions of William Penn, Junior, against the Procedure of the Court (in Relation to him) at the Old Bailey . ." Aug 31, 1670, Letter Book, 1667-1675, pp. 126-127.

thereby confirmed." The purpose of the "ancient constitution of the lands," he argued, had nothing to do with the profession of religion; but that great document "considers us as English men and as a civil body and society of people trading and commercing together in such things as are of a civil, external nature and importance." Penal laws, therefore, were unconstitutional, for "there is not a law extant that legally can invalidate the Great Charter of England. . . ." <sup>44</sup> Penn insisted that the liberties claimed by dissenters did not arise out of Protestantism but antedated that movement; "their date rises higher." He asserted, on the same occasion, to the persecuting justices in Middlesex that religion was outside the realm of government: "This or that sort of religion was not specified in the ancient civil government. . . ." He declared that "though the clergy twisted into the Great Charter," that document was not intended "to deny others liberty of conscience, but to secure their Church, properties, and revenues from the King's seizure. . . ." <sup>45</sup> As has been shown elsewhere, in *England's Present Interest* and in the *Persuasive to Moderation* Penn drew extensively upon both legal sources and patristic writings to show the validity of the three great principles which he called "the proper birthright of Englishmen," and to establish the argument for religious toleration. He concluded his argument for toleration in *Good Advice to the Church of England* with an excellent summary of his position on the legal aspects of the question:

You claim the character of Englishmen. Now, to be an Englishman, in the sense of the government, is to be a freeman, whether lord or commoner, to hold his liberty and possessions by laws of his own consenting unto, and not to forfeit them upon facts made faults by humor, faction, or partial interest prevailing in the governing part against the constitution of the kingdom; but [to forfeit such liberty and possessions] for faults only that are such in the nature of civil government,—to wit, breaches of those laws that are made by the whole in pursuance of common right for the good of the whole.<sup>46</sup>

Religious belief and practice, then, were properties belonging to Englishmen, and properties were guaranteed to English subjects

<sup>44</sup> Penn, "The Arraignment and Judgment of that Cruel Spirit of Persecution," Letter Book, 1667-1675, p. 72.

<sup>45</sup> Penn to J. H. and His Companions, *Works*, I, 169.

<sup>46</sup> *Works*, II, 771.

by the constitution of the realm. Nonconformity to the national religion could not legally deprive Englishmen of these more ancient rights. The free exercise of religious beliefs Penn derived from fundamental law.<sup>47</sup>

In spite of these cogent appeals for toleration based upon the alleged illegality of persecution, Penn was willing to defend the royal abrogation of Parliamentary statutes when such action seemed to advance the cause of religious toleration. Discriminatory statutes, he informed the justices in Middlesex in the letter to which reference has just been made, might remain on the books; but "there be many acts never formally repealed that obtain no force among us but [are] as much neglected as if they were abrogated by new laws." He thought it seemed unreasonable to give "servants liberty to use their discretion in errands, or constables in the execution of their trusts," and then refuse to give the King power to suspend temporary laws. In the very letter in which he insisted that the English monarch had "power but from and according to law, not that he makes his will and power law," he defended the royal Declaration of Indulgence of 1672 by which the King had arbitrarily suspended acts of Parliament. Though Penn made a distinction between "fundamental" or "eternal" law and statutory or "temporary" law, the nature of the English constitution makes such a distinction of no great importance. To argue that mere magistrates might with propriety use their own discretion about the enforcement of statutes or that the King might properly nullify acts of Parliament cannot consist with the position that laws as such are inviolable. A dialectician who had so belligerently grounded his asserted rights on law might well have hesitated to strengthen his argument on the ground of the lapse of law. Penn, intent upon winning his case, was, like most advocates, not too much distressed by logical imperfections in his own argument.

On March 14, 1685/6, James II published a general pardon and extended its benefits to the Quakers. About thirteen months later he issued his Declaration for Liberty of Conscience, suspending the execution of the penal laws in ecclesiastical matters. These exercises of the royal prerogative won the enthusiastic support of

<sup>47</sup> See "England's Present Interest," *Works*, I, 674-691.

Penn, though he seems to have expected Parliamentary action of a confirmatory nature. In May, 1687, the Quaker leader delivered his address on behalf of the Quakers to James II, praising the sovereign for his suspension of the penal laws. He declared on this occasion that the King had "relieved his distressed subjects from their cruel sufferings, and raised to himself a new and lasting empire by adding their affections to their duty." He lauded the royal policy as based "upon a principle that has good nature, Christianity, and the good of civil society on its side, a security to him [the King] beyond the little arts of government."<sup>48</sup> This sentiment was expressed by the man who twelve years before had declared that part of the birthright of Englishmen was the "voting of every law that is made," a right which was one of the shelters of the English people "against the storms of arbitrary government."<sup>49</sup> That Penn was not unaware of the arbitrary nature of the royal act is shown by his letter of October 21, 1687, in which he expressed the hope that Parliament would "settle a great charter for Liberty of conscience."<sup>50</sup>

To support toleration Penn used the argument from authority. He summoned high Anglican ecclesiastics to testify for that policy. He referred in his *Good Advice to the Church of England*<sup>51</sup> to such bishops as Stillingfleet, Tillotson, and Burnet as opponents of persecution. In the same work he enlisted Charles I as an advocate of toleration, one, moreover, whom "the Church of England is bound to hear by many obligations." Penn found evidence of Charles's belief in toleration in that King's "message of a treaty," March 3, 1643, written from Oxford to the Parliament at Westminster, and, also, among other royal sayings, in the King's advice to the Prince of Wales.<sup>52</sup> In the *Persuasive to Moderation* he

<sup>48</sup> *Works*, I, 130.

<sup>49</sup> *Ibid.*, p. 675.

<sup>50</sup> Penn MSS, X, Dom. & Misc. Letters, p. 87.

<sup>51</sup> *Works*, II, 749-773.

<sup>52</sup> Penn wrote in *Good Advice to the Church of England*: "King Charles the First, out of his tender and princely sense of the sad and bleeding condition of the kingdom, and his unwearied desires to apply such remedies as, by the blessing of Almighty God, might settle it in peace, by the advice of his Lords and Commons of Parliament, assembled at Oxford, propounded and desired, 'That all the members of both Houses might securely meet in a full and free convention of Parliament, there to treat, consult, and agree upon such things as may conduce to the maintenance and defence of the reformed Protestant religion, with due consideration to all just and reasonable ease to tender consciences.'" *Works*, II, 762.

quoted King James I as saying: "It is a sure rule in divinity . . . that God never loves to plant His Church by violence and bloodshed." <sup>53</sup> In the abstract, such arguments from authority might well be counted upon to impress authoritarians, if those authoritarians be both consistent and logical.

Penn repeatedly appealed to the dignitaries of the Church of England in behalf of toleration. One of his arguments emphasized consistency. "A Church that denies infallibility," he declared, "cannot force, because she cannot be certain; and so penal laws (though it were possible that they could be lawful in others) in her would be unjust." <sup>54</sup> He found it "unpardonable in a Protestant to deny men their civil freedom upon or under religious dissent, since they observed it so great a work of Anti-Christ in the Papists, unless they think that Christianity in themselves which they adjudged inhuman in the Papist." <sup>55</sup> He declared in *England's Great Interest* that Protestantism and persecution were in essence mutually contradictory: "where Protestants persecute for religion, they are false to their own profession, and turn Papists even in the worst sense, against whom their ancestors did so stoutly exclaim. . . ." <sup>56</sup> He argued in *Good Advice to the Church of England* that "Scripture leaves men to conviction and persuasion; that the true Church-weapons are light and grace; and her punishments, censure and excommunication; that gaols and gibbets are inadequate methods for conversion, and that they never succeeded. . . ." In the same work Penn warned the Church not only of the inconsistency of tests for religion but also of the danger that such tests might one day be turned upon the Church herself. He insisted that "it were ridiculous to talk of giving liberty of conscience . . . and at the same time imagine those tests that do exclude men that service and reward ought to be continued. . . ." He contended that under the Test Act "everybody shall have liberty of conscience but the government." The wisdom of procedure under such a rule was questionable: "for while a man is out of office, he is test-free; but the hour he is chosen to any station, be it in the legislation or administration, he must wiredraw his conscience to hold it, or be excluded with the brand of dissent. . . ." How

<sup>53</sup> *Ibid.*, p. 748.

<sup>55</sup> *Letter Book*, 1667-1675, p. 72

<sup>54</sup> *Ibid.*, p. 757.

<sup>56</sup> *Works*, II, 681.



would such a requirement affect the public service? "Is this the way," Penn asked, "to employ men for the good of the public, where opinion prevails above virtue, and abilities are submitted to the humor of a party?" In the name of consistency, her own, and the public good the Church was summoned to toleration.<sup>57</sup>

Penn also directed arguments to the King. He appealed to the monarch's sense of the dignity and exalted nature of his position. He declared in the *Persuasive to Moderation* that "'t is the mercies of princes that above all their works give them the nearest resemblance to Divinity in their administration." Princes, therefore, should be above "the passions that possess and animate private breasts, for it were fatal to the interest of a prince that the folly or undutifulness of any of his subjects should put him out of the way, or tempt him to be unsteady to his principle and interest. . . ." <sup>58</sup> Princes, more than ordinary mortals, need to be tolerant.

For many years Penn argued that the granting of toleration was essential to the welfare of a monarchy and to the English monarchy in particular. He asserted in his youthful letter to the Earl of Orrery in 1667 that there was "no way so effectual to improve or advantage this country [England] as to dispense with freedom in things relating to conscience. . . ." <sup>59</sup> He incorporated in the *Journal of His Travels in Holland and Germany* an extract from a letter written to the Elector Palatine, in which Penn urged toleration upon that prince because "it preserveth concord; no kingdom divided against itself can stand." Toleration was wise, he said, because:

It rendereth the prince peculiarly safe and great. Safe, because all interests, for interest-sake, are bound to love and court him. Great, in that he is not governed or clogged with the power of his clergy; which in most countries is not only a coördinate power, a kind of duumvirateship in government, *imperium in imperio*, at least an eclipse to monarchy, but a superior power, and rideth the prince to their designs, holding the helm of the government, and steering not by the laws of civil freedom, but certain ecclesiastical maxims of their own, to the maintenance and enlargement of their worldly empire in their church. And all this villainy acted under the sacred, peaceable, and

<sup>57</sup> *Ibid.*, pp. 757, 764-771, 772

<sup>59</sup> Letter Book, 1667-1675, p. 167.

<sup>58</sup> *Ibid.*, p. 737.

alluring name of Christ, His ministry and church, though as remote from their nature as the wolf from the sheep and the pope from Peter.<sup>60</sup>

Penn's *Persuasive to Moderation* also stressed the necessity of religious toleration to the royal security. That ruler who coerces the consciences of his subjects cannot be assured of their loyalty: "wise men rarely confide in those whom they have debauched from trust to serve themselves; at best, it resembleth but forced marriages that seldom prove happy to the parties." It would be dangerous for the sovereign to be intolerant, for "by exposing property for opinion, the prince exposes the consciences and property of his own family, and plainly disarms them of all defence, upon any alteration of judgment." Intolerance might deprive the monarchy of some of its best subjects on the principle of "no Churchman, no Englishman." Stating as a maxim that "mankind by nature fears power and melts at goodness," Penn declared that "safety" is the great spring of human action. If men have security, "they have yet wit enough not to hazard it for anybody. . . . Men may indiscreetly plot to get what they would never plot to lose." Consequently, "ease is not only their content but the prince's security." To illustrate the wisdom of a policy of moderation he quoted in this pamphlet Charles I's advice to his son, the future Charles II. The royal reasoning, adopted by the Quaker, was along the familiar line of yielding nonessentials to confound the adversary: "Toleration often dissipates their strength whom rougher opposition fortifies and puts the despised and oppressed party into such combinations as may most enable them to get a full revenge on those they count their persecutors." Penn drew an argument for toleration from the hypothesis that a "balance" between sects would be a benefit to the monarchy. In political affairs, he said, "though it be improbable, it may so happen that either the conforming or non-conforming party may be undutiful; the one is then a balance of the other." Such a *concordia discordantium* may have saved such English monarchs as Henry II, John, Henry III, Edward II, Richard [II?], and Henry VI, "as it undeniably saved the royal family of France, and secured Holland and kept it from

<sup>60</sup> *Journal of His Travels in Holland and Germany in 1677*, pp. 59, 60; *Works*, I, 75.

truckling under the Spanish monarchy." Policy, if no higher motive, would dictate to rulers the value of religious toleration.

Penn alluded in this work to the delicate question of the succession to the English throne. He argued that the "admission of dissenting worships with impunity to the 'dissenters' " was a guarantee for property, "which is civil right." Since "the line and power of the monarchy" was such a right, toleration would secure that "the point of succession is settled without a civil war or a recantation." With a logic that would certainly have appealed both to Charles II and his successor, Penn expressed his belief that "it were an absurd thing to imagine that a man born to five pounds a year should not be liable to forfeit his inheritance for non-conformity, and yet a prince of the blood and an heir to the imperial crown should be made incapable of inheritance for his Church-dissent." Pressing this argument, Penn reminded his readers "that several of the same gentlemen who at first sacrificed civil rights for non-conformity in common dissenters fell at last to make the succession of the Crown the price of dissent in the next heir of the royal blood." Appealing to "the great reason and equity of the thing itself," he asserted that "there can hardly be a dissenter at this time of day so void of sense and justice, as well as duty and loyalty" as not to agree that toleration would be "a security to the royal family against the difficulties lately labored under in the business of the succession."

In this pamphlet Penn set up straw men against which to direct his arguments. One of these, to be described as political, he stated as follows: "Toleration of dissenting worships from that established is not practicable . . . without danger to the state with which it is interwoven." He contradicted this objection by the remark that the national religions in Germany and in Denmark had been changed at the time of the Reformation without overthrowing the government. More pertinently, perhaps, he reminded his readers that in England the state religion had been changed under Henry VIII, under Edward VI, under Mary, and again under Elizabeth, with no resulting disaster to the government. He cited further examples from Jewish, Roman, Dutch, Polish, Italian, Swiss, French, and German history. A second objection he phrased as follows: "That admitting dissenters to be in the wrong (which

is always premised by the national church), such latitude were the way to keep up the disunion, and instead of compelling them into a better way, leave them in the possession and pursuit of their old errors. . . ." Obviously, it was this argument that Penn was attempting to counter when he called upon the first King Charles to testify in behalf of toleration.

He refuted the argument that the government of Holland was limited to "only one persuasion," and England might well be guided by the example of that state. His refutation is not convincing and might be turned back by his opponents to overthrow itself. His first point was that those who argue that England should follow the Dutch example in this particular had failed to "consider, first, how much more Holland is under the power of necessity than we are." This assertion he did not elaborate, but proceeded immediately to set up the next point, namely, "that our constitutions differ greatly." In proof, he called attention to "the little compass they [the Dutch] live in, the uncertainty and precariousness of the means of their subsistence; that as they are in more danger of drowning, so nearer ruin by any commotion in the state than other countries are. . . ." Since many of the Hollanders were traders and, therefore, wealthy men, they were cautious "of the disorders that may spoil them of it [wealth]." In consequence, the governing classes were more careful about how they use their power "and the other interests tender how they resist it. . . ." He asserted that though their state was nominally a republic, the Dutch had much less political freedom than had the English. Thus he emphasized political differences between the two nations as valid reasons for differing treatment of religious questions.<sup>61</sup>

Penn also met the assertion that toleration might serve well enough for a commonwealth but not for a monarchy. He argued

<sup>61</sup> In the *Persuasive to Moderation* Penn praised the Dutch for their tolerance. He even alleged that the wealth and power of the Dutch state were largely the result of the religious toleration there practiced: "Holland, that bog of the world, neither sea nor dry land, now the rival of the tallest monarchs, not by conquests, marriages, or accession of royal blood, the usual ways to empire, but by her own superlative clemency and industry, for the one was the effect of the other. She cherished her people whatsoever were their opinions, as the reasonable stock of the country, the heads and hands of her trade and wealth; and making them easy in the main point, their conscience, she became great by them. Thus made her fill with people, and they filled her with riches and strength." *Works*, II, 730-731.

that if such were the case, "it would follow, by the rule of contraries, that a republic could not subsist with unity and hierarchy, which is monarchy in the church; but it must, from such monarchy in church, come to monarchy in state, too." He asserted that Venice, Genoa, Lucca, some of the Swiss cantons, and the city of Rome itself—all disprove the contention. He continued the refutation by declaring that if toleration were practicable for a commonwealth but not for a monarchy, that simply proved the superiority of the former type of government. "A commonwealth is hereby rendered a more copious, powerful, and beneficial government to mankind, and is made better to answer contingencies and emergencies of state, because this subsists either way; but monarchy not, if the objection be true. . . ." To disprove the notion that toleration cannot exist in a monarchy, however, Penn appealed to history. He tried to show that since the days of the Jewish monarchy toleration has been practiced by kings. He cited the "tranquillity and success of those heathen Roman emperors that allowed indulgence." He asserted that "the Grand Seignior, Great Mogul, Czars of Muscovia, King of Persia, the great monarchs of the East, have long allowed and prospered with a toleration. And who does not know that this gave great Tamerlane his mighty victories?" He turned to French history to draw arguments from the reign of Henry IV, and he appealed both to the annals of the English and the Germans to prove his point. He quoted the saying attributed to King Stephen of Poland, "that he was a king of men and not of conscience, a commander of bodies and not of souls"; and he called attention to the fact that in that Roman Catholic country such dissenting sects as the Calvinists and the Socinians were tolerated.

Penn's reasoning appeals most to the modern student perhaps when he defends freedom of religion on the basis of "the condition and natural estate of the conscience itself." He developed this argument in *Good Advice to the Church of England*. There he declared that sovereignty over conscience was vested in God alone. To illustrate the point he quoted the Emperor Maximilian I: "*Conscientiis dominari velle est arcem caeli invadere.*" His summary of the argument based on the innate freedom of conscience and against a forced compliance ran as follows:

And against compliance, I could say, that it's to betray God's sovereignty over conscience; to defy men; gratify presumption; soil and extinguish truth in the mind; obey blindfold; make over the soul without security; turn hypocrite, and abundance more; each of which heads might well merit an whole chapter.<sup>62</sup>

Penn defended vigorously the Quaker refusal to use oaths. In 1675 he had published his *Treatise of Oaths*, addressed to the King and Parliament.<sup>63</sup> He declared in this book that swearing originated in the degeneration of the human race from its pristine virtue. The birth of swearing, as he put it, "in perfidy" ought to be a reason why a religion seeking to establish integrity should rid itself of such a custom. Oaths "abolish the distinction between men of veracity and those of loose and perfidious characters." Since oaths are so frequently used, they have lost any character of impressiveness which they may once have had. "Those who entertain a just sense of the omnipresence of God have no need of an oath to confine them to the truth." The appeal to Heaven to witness assertions of men on trivial occasions is irreverent. Jesus was opposed to the taking of oaths, "and swearing is contrary to the nature and general character of Christianity." In other writings Penn reiterated his attacks upon oaths and the Test Act, which made the taking of oaths essential to any one wishing to assert his possession of the rights of full English citizenship. In his tract *One Project for the Good of England*, for example, he asserted that "God's Providence and the wisdom of our ancestors have found out a better test [than oaths] for us to rest upon, and that is our common interest and the laws of the land duly executed." He contended that oaths not to plot were vain and no security, for one might take the oath not to plot and yet plot. "But," he wrote, "though 'tis evident that this be no security, that law which hangs him for plotting is an unquestionable one." Therefore, "swearing men to the government" would not "secure it; but all having agreed to the laws by which they are to be governed, let any man break them at his peril. Wherefore, good laws and a just execution of them, and not oaths, are the natural and real security of a government. . . ." <sup>64</sup> Though he urged pacifistic principles in explanation of the seeming disloyalty, Penn's refusal to swear that

<sup>62</sup> *Ibid.*, pp. 757, 759.

<sup>63</sup> *Ibid.*, I, 612-672.

<sup>64</sup> *Ibid.*, II, 688.

armed resistance to the King was unlawful once cost him a term of imprisonment in Newgate.<sup>65</sup>

The position of the Friends in Pennsylvania on the taking of oaths caused great friction between them and the Anglicans. Penn informed the Commissioners for Trade and Plantations in 1702 that as early as 1683 oaths had been required in the province "of such as could swear" but that "those that were called Quakers were solemnly attested according to the law and custom of the province." He stated that this arrangement had not been modified until Governor Fletcher's time; since the restoration of the government to him in 1694 he had made no change.<sup>66</sup> Between 1706 and 1712 Penn was much concerned with arguments before the authorities in England to prevent the annulment by the Crown of acts passed by the legislature in Pennsylvania providing that those who could not swear might affirm. He was unsuccessful in his efforts. For the failure of the affirmation to stand he blamed the Anglicans.<sup>67</sup>

One of the difficulties caused by Quaker opinion about oaths was the matter of trials and of taking testimony in court. Randolph charged the authorities of Pennsylvania, on March 24, 1701, with responsibility for the trial, condemnation—and in one case, execution—of persons in the province itself and in the Lower Counties by unsworn juries.<sup>68</sup> One Byfield attended the Board of Trade in 1702 and complained that a verdict had been illegally rendered against him in Pennsylvania by an unsworn jury.<sup>69</sup> Quarry complained "that Quakers refuse to take the oaths or to act in the government of Pennsylvania with any but themselves."<sup>70</sup> After considering a report from Lord Cornbury "relating to the condemnation of some persons to death in Pennsylvania by judges and juries not upon oath," the Board requested their secretary in

<sup>65</sup> Janney, *op. cit.*, p. 81; Hirst, *The Quakers in Peace and War*, p. 156.

<sup>66</sup> B.T.P., Vol. VII, L 3, entered folio 258.

<sup>67</sup> As early as 1704 he had written to Logan that the Queen's letters about the affirmation might have been prompted "by interested persons or those that would make their court at other men's cost and go upon private piques." The Bishop of London he pronounced "the great blower up of these coals." Penn to Logan, March 10, 1703/4, Logan Papers, I, 48.

<sup>68</sup> B.T.P., Vol. VI, G 3, folio 4.

<sup>69</sup> B.T.J., XV, 73 (entry for June 8, 1702. The date of the minute is given as July 8, 1702, but this date is evidently an error).

<sup>70</sup> B.T.J., XVI, 153-154 (entry for June 9, 1703).

1703 to "write Mr. Penn to take care for putting a stop to such undue proceedings." <sup>71</sup>

Another difficulty was the necessity that oaths be taken in the process of registering ships. Quakers, who could not swear, were therefore debarred from owning or operating them. Penn stated their case in a letter to the Commissioners of the Customs early in 1700 and begged that they be allowed to register on their attestation. "The want of it," he wrote, "is like to prove of fatal consequence to the navigation of this province, some vessels of which are laid up to rot by the walls purely upon that score." A year later he again wrote to the Commissioners to acknowledge their "obliging assurances" of assistance for any Parliamentary motion with reference to registering. He declared such assistance necessary "if you will encourage shipping and trade, divers having withdrawn from those concerns because they cannot employ such as they have long known and that they can be answerable for to you . . ." <sup>72</sup>

Penn refused to compromise on the taking of oaths. He wrote Logan in 1709 that he abhorred "the new affirmation carried here [in England] and then there [in Pennsylvania] by absolute faction, and if I can, I will waive it; for I would rather Friends were never in power, so our old affirmations were confirmed for Friends and others scrupulous, and oaths for the rest. . . ." <sup>73</sup> A few months later he was noting with satisfaction the migration of groups of Germans to his province. Among their virtues he listed their detestation of oaths. These Palatines, he wrote, "are a sober people, diverse minionists [i.e., Mennonites], and will neither swear nor fight. . . ." <sup>74</sup>

Penn drew up early in his career a substitute for oaths, a draft of which may be seen in his early Letter Book. It is there described as a "proviso for Friends' Yea or Nay." His plan required the enactment of a law that the Yea or Nay of a person who objected to taking an oath should be regarded as having the same force as an

<sup>71</sup> B T J., XVI, 187 (entry for July 23, 1703).

<sup>72</sup> Penn to Commissioners of the Customs, Feb. 28, 1699/1700 and same to same, March 6, 1701, Letter Book, 1699-1701, pp. 15 and 91. See also Penn to the Board of Trade, undated, Letter Book, 1699-1701, p. 12.

<sup>73</sup> Penn to Logan, March 12, 1708/9, *Penn and Logan Correspondence*, II, 339.

<sup>74</sup> Penn to Logan, June 26, 1709, Penn MSS—Penn Family to Logan, I, 46.



oath and that anyone convicted of testifying falsely by Yea or Nay be subjected to all the penalties of the realm assessed of convicted perjurers. The proposed act would also provide that none who refused upon scruple to take an oath should be subjected to any pain or punishment for such action.<sup>75</sup> In 1678 Penn argued before a committee of Parliament in favor of the petition that affirmation might be substituted for oath-taking. The House of Commons did pass a bill to this effect, but the measure was lost in the House of Lords by their dissolution. Penn made further efforts in 1695 in behalf of affirmations, and in 1696 the principle was enacted by the Parliament into law.<sup>76</sup>

Although he frequently and forcefully asserted his opposition to swearing, on occasion Penn expressed himself in language which seems almost, if not quite, in the nature of an oath. In 1686, for example, lamenting his financial loss consequent upon the colonization of Pennsylvania, he wrote from London, "... for in the sight of God I can say, I am five thousand pounds and more behind hand more [*sic*] than ever I received or saw, for land in that province. . . ." <sup>77</sup> The following year he called upon God to attest his statement to James Harrison about the nonpayment of his quit-rents: "The righteous God is my witness I have spent thousand[s?] more than ever I got by it." <sup>78</sup> Penn sometimes, in his bitter letters to Logan about the ingratitude of his colonists or the villainies of his enemies, referred to the Deity in a way that modern readers would describe as profane. He once called Colonel Quarry "the greatest of villains . . . whom God will make, I believe, in this world for his lies, falsehood, and supreme knavery." <sup>79</sup> More than five years after writing that letter, Penn demanded of Logan with reference to the colonists, "what proprietor and governor would care one jot what becomes of such foolish, if not wicked, people." Predicting righteous retribution upon them, if not actually cursing them, he declared: ". . . and as they use me, who have been of the

<sup>75</sup> Letter Book, 1667-1675, p. 128.

<sup>76</sup> Fisher, *The True William Penn*, pp. 184-186; Hull, *William Penn: A Topical Biography*, p. 205.

<sup>77</sup> Penn to Harrison, Sept. 23, 1686, Penn MSS, X, Dom. & Misc. Letters, p. 29.

<sup>78</sup> Same to same, Oct. 22, 1687, Penn MSS, X, Dom. & Misc. Letters, p. 35.

<sup>79</sup> Penn to Shippen, Story, Owen, and Logan, Jan. 10 and Jan. 22, 1702/3, *Penn and Logan Correspondence*, I, 162.

using and getting side, and I and mine on the sinking and losing, God, That brought me thither and that place to me which has made the most of them what they are, will use them and theirs. . . ." <sup>80</sup> It would, no doubt, be an exacting critic who would deny to even so sober a man as William Penn an occasional slip under circumstances so vexatious.

Penn's chief opponent in the battle for toleration was, of course, the Church of England. Ordinarily he objected in principle to an established religion, since that implied discrimination against dissenters. The chief pillars of the English Establishment were tithes and the penal laws. Penn's objections to the former will be treated in another chapter of this study as a phase of his philosophy of taxation. His arguments against the penal laws as instruments of religious intolerance have been discussed earlier in the present chapter. There remains the need to point out his objections to them purely as props of the Establishment. The Church, he thought, was incomprehensibly unreasonable in insisting upon such laws. The Anglican attitude seemed to him entirely inconsistent with respect to James II, whose exclusion from the succession had been demanded in the reign of Charles on religious grounds. The argument of the Church that upon his accession the King had promised to maintain the penal laws and that, therefore, they should not be repealed Penn found unsound. "To object the King's promise, when he came to the crown, against the repeal of the penal laws shews not his insincerity but her uncharitableness, or that really she has a very weak place." He pointed out that the Church "thinks herself shaken if the penal laws be repealed; then 'by law established' she must mean 'established by those penal laws.'" Consequently, he argued, though not with perfect logic, that the Church "must not take it ill, if all men think her ill-founded; for anything must be so that is established by destroying laws! Laws that time and practice have declared enemies to property and conscience. . . ." <sup>81</sup>

Obviously, in Pennsylvania the Founder's relations with his old antagonist, the Church, were on a basis quite different from that in the mother country. In the Quaker colony the Anglicans were

<sup>80</sup> Penn to Logan, May 18, 1708, *Penn and Logan Correspondence*, II, 272.

<sup>81</sup> *Works*, II, 755.

in the minority, were not in control of the government, and were able to affect the course of events only through appeals to the authorities in England. Penn was limited by the terms of his Charter with reference to the Anglican Church, and the Bishop of London was vigilant in demanding of the secular arm protection against any threatened invasion of Anglican rights in Pennsylvania.<sup>82</sup> These interpositions Penn regarded as a "suffering that makes us very uneasy"; he complained in 1701 to Harley about "the heat of a few Churchmen, headed by a Flanders camp parson, under the protection of the Bishop of London, who having got a few together, make it their business to inveigh against us and our government."<sup>83</sup> There is no evidence that Penn would have denied to the Anglicans in Pennsylvania any of the rights he claimed from them in England, even had there been no guarantees and no home government to enforce these rights. He told Secretary Vernon in 1700 that in Pennsylvania members of the Church of England had equal privileges with the Friends, who with "far greater number and wealth . . . were the original undertakers, and to whose hazards, expense, and extreme labors is owing its [Pennsylvania's] being a province. . . ." He referred in the same communication to "the presumption and refuge of that sort of folks that call themselves Churchmen against the governor that will not let them have their humor against justice and common prudence."<sup>84</sup> On another

<sup>82</sup> B.T.J., III, 253; XVII, 164; XVIII, 353-356 (entries for Feb. 24, 1680, Nov. 14, 1704; July 8-11, 1706). Penn to Somers, Oct. 22, 1701, Letter Book, 1699-1701, pp. 68-71.

<sup>83</sup> Hist. MSS Com., *15th Report*, App., Part IV, *Portland MSS*, pp. 31-32

<sup>84</sup> Penn to Vernon, Dec. 30, 1700, Letter Book, 1699-1701, p. 63. Some of the Anglicans in Philadelphia found the Quakers much to blame for the prevalence in the waters of the Delaware of piracy and illegal trade. The Reverend Mr. Portlock, Anglican clergyman in that city, was particularly zealous in his denunciations from the pulpit and in his public charges that the Quakers showed a lack of vigor in dealing with these evils. Shortly afterwards it was discovered that the minister himself had knowingly aided in the concealment of piratical goods. Portlock had been appointed to his position in Philadelphia only temporarily, and upon the discovery of his dealings with the pirates, he fled from the province. These incidents of the closing months of 1700 afforded Penn keen amusement. He wrote almost gleefully of the matter to Lord Bellomont and to the Board of Trade. Penn to Bellomont, Dec. 30, 1700, Letter Book, 1699-1701, pp. 64-67, Penn to the Board of Trade, Dec. 31, 1700, Letter Book, 1699-1701, pp. 71-73. Of Portlock's successor Penn wrote in a kindly manner to Robert Assheton, declaring the new clergyman "a man sober and of a mild disposition" and hoping that he would be courteously treated and disposed to "an easiness of mind." He went on to say in this

occasion, after commenting to Logan about Quarry and "any of his rude and ungrateful gang," Penn reported that he had "offered" to the Lords Commissioners "either that we might be bought out or have liberty to buy out our turbulent Churchmen. . . ." <sup>85</sup> Was the great protagonist of religious toleration growing doubtful that such an idealistic principle could be adhered to in this selfish and unreasonable world? Or were his remarks the fruit of the weariness and disillusionment that often overtakes advancing age, a mere weakness of the flesh displayed in a moment of deep depression and not a statement of fundamental conviction?

Matrimony also gave occasion for disputes between the Quaker governors of Pennsylvania and the Anglicans there. A law to check clandestine marriages was passed in 1700 at New Castle. Penn informed Nicholson that this measure was supported unanimously by the representatives not only of Pennsylvania but of the Lower Counties as well. It was, moreover, such a law as the governors of the several colonies in their conference at New York had thought suitable. It provided that persons intending to marry should post a statement of such intention at least a month before the projected date of the marriage, "in the most noted place of the county they live in." A controversy thereupon arose with the Anglican clergyman in Philadelphia. The details of the dispute will be discussed in a later chapter of this study, but the issues should be indicated here. Penn defined the "very reasonable" motive of this law to be "that people might not be deprived of their children or servants without consent." As for the Anglican minister, it was now his turn to refuse compliance on grounds of conscience. He urged that his oath of canonical obedience obliged him to "marry all that are not too near of blood, above one and twenty, and that have been thrice asked." Penn's remarkable reply to this contention should be noted: "I think it an ill consequence to plead conscience against the security of property. . . ." <sup>86</sup>

Penn on several occasions placed definitely in the record his

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letter that "while he [the new parson] behaves himself with candor and ingenuity, he shall want no good will from [sic] nor kindness that I can shew him and that he may expect as much favor in all reasonable things as he could from any governor of his own way." Penn to Assheton, Nov. 1, 1700, Society Collection

<sup>85</sup> Penn to Logan, March 10, 1703/4, Logan Papers, I, 48.

<sup>86</sup> Penn to Nicholson, Dec. 31, 1700, Letter Book, 1699-1701, p. 83.

opposition to Roman Catholicism both as a religious creed and as a political force. In his *Seasonable Caveat against Popery*,<sup>87</sup> addressed "To the English Protestant Reader" and printed in 1670, he hoped "it may not be too late to militate for truth against the dark suggestions of papal superstition." He wrote in this essay of "the quaintest stratagems and most unwearied endeavors of Romish emissaries" to put both the liberty of the Reformation "and us into their inquisition." He thought a "great number of Romanists may be abused zealots, through the idle voluminous traditions of their Church." He challenged the papists in *Truth Exalted*, written while he was a prisoner in Newgate in 1668, to find in the Scriptures justification of the papacy as an institution, as an arbiter of human consciences, as the power by which civil empire is made and unmade.<sup>88</sup> He begged his correspondents, the justices in Middlesex, "to peruse this short discourse against the Papists," as evidence—it would seem—that the Quakers ought not to be treated under the law as the Romanists were.<sup>89</sup> Penn's writings against the Catholics in this early period were, in fact, such that a Catholic named Lang rebuked him with some heat for his remarks on the Roman Church.<sup>90</sup>

When in 1678 Titus Oates made public his story of the "Popish Plot," Penn shared the general excitement in England. He wrote *England's Great Interest* the following year, in which he declared: "All is at stake. The plot must be tracked out and punished. . . ." Among other necessary reforms he demanded that "we must be secured from Popery and slavery." The electors were urged to choose for Parliament "brave men, sincere Protestants." Secret papists, he asserted, could be discovered by their "laughing at the plot, disgracing the evidence, admiring the traitors' constancy, that were forc'd to it, or their religion and party were gone beyond an excuse or an equivocation."<sup>91</sup>

When in March, 1678, a bill was before Parliament to distinguish between Protestant dissenters and papists and to exempt the former from the operation of the Test Act, Penn supported the

<sup>87</sup> *Works*, I, 467-486.

<sup>88</sup> *Ibid.*, pp. 239-248.

<sup>89</sup> *Ibid.*, p. 168.

<sup>90</sup> Penn to Go [George?] R. Lang, 1671, *Letter Book*, 1667-1675, pp. 10-11.

<sup>91</sup> See also Penn to Hendricks and Claus, Nov. 27, 1679, in *Bulletin of Friends' Hist. Soc. of Philadelphia*, Vol. IV (1911), No. 1, p. 10.

Quaker demand for an affirmation for those who could not swear.<sup>92</sup> His position, obviously, did not aid the Roman Catholics. His *Address to Protestants of all Persuasions* contained a denunciation of religious persecution as a great evil of popery, a vice which Protestants had borrowed from the Catholics.<sup>93</sup> In *England's Great Interest* he stigmatized persecution as an element in Roman Catholicism. He said there to the persecuting Anglicans:

You are afraid of Popery, and yet many of you practise it. For why do you fear it but for its compulsion and persecution? And will you compel or persecute yourselves, or choose such as do? If you will, pray let me say, You hate the Papists, but not Popery...<sup>94</sup>

Aside from the charges of intolerance and persecution which Penn levelled against the Roman Church, there was a more serious allegation, perhaps, for the conscientious man. He believed that "the papal interest" was "a combination against good sense, reason, and conscience" and that its result was "to introduce a blind obedience without (if not against) conviction." He urged the election to Parliament of "sincere Protestants" because "that principle which introduces implicit faith and blind obedience in religion will also introduce implicit faith and blind obedience in government."<sup>95</sup> In his *Project for the Good of England* he asserted of Protestants, whether of the Church of England or dissenters, that in common "they only owe allegiance and subjection unto the civil government of England," but that Roman Catholics owe allegiance to a civil power other than the English government. Both Anglicans and Protestant dissenters disclaim "the Pope's supremacy and all adhesion to foreign authority under any pretence." Thus, political reasons placed the Roman Catholics on a different basis from Protestants and made discrimination against them a necessity. Political expediency alone, however, was not enough to complete the Quaker's case against the Roman Catholics. Protestant Englishmen, he declared, "deny and oppose the Romish religion, as it stands degenerated from Scripture and the first and purest ages of the Church."

William Penn's position with respect to toleration for the

<sup>92</sup> Janney, *op. cit.*, pp. 129-132; Fisher, *op. cit.*, pp. 185-186; Hirst, *op. cit.*, pp. 154-155; Hull, *William Penn: A Topical Biography*, p. 205.

<sup>93</sup> *Works*, I, 795 ff.

<sup>94</sup> *Ibid.*, II, 682.

<sup>95</sup> *Ibid.*, p. 681.

Roman Catholics at this period in his life seems clearly indicated in his draft of a substitute for the oath required under the Test Act. This he incorporated into the same essay under the title of "The New Test."<sup>96</sup> He proposed to supplant the legal oath by a declaration, to be taken publicly and annually, that "neither the Pope nor see of Rome, nor any else by their authority" may depose the English King or dispose of his kingdom or absolve his subjects from allegiance; and that the "present communion of the Roman Catholic Church is both superstitious and idolatrous." The declaration also specifically denounced such doctrines as those of the pope's position as Christ's vicar, Purgatory, "Saint-worship," and transubstantiation. One who proposed such a test with penalties for failure to qualify can hardly be described as an advocate of toleration for Catholics. In the preceding year, however, Penn made a definite statement of his wish that papists be freed from persecution. He protested against the practice of placing Quakers and Catholics in the same proscribed list because they refused to take the Test oaths, when they were acting, Penn would have argued, for quite different reasons; but he hastened to add that by his argument he did not mean to express approval of persecuting Catholics:

I would not be mistaken: I am far from thinking it fit that Papists should be whipped for their consciences because I exclaim against the injustice of whipping Quakers for Papists. . . . we do not mean that any should take a fresh aim at them . . . for we must give the liberty we ask . . . and those methods against persons so qualified do not seem to me to be convincing, or indeed adequate to the reason of mankind.<sup>97</sup>

In spite of these admirable sentiments Penn's proposed Test did not grant to the Romanists the liberty it asked for the Quakers. Why was he willing at this time to discriminate between the two oppressed groups? Perhaps the answer is that he feared the Catholic influence as much as some of his words following the spurious revelations of Oates seem to indicate. He certainly had the feeling that, regardless of certain sectarian differences, Protestants ought to exhibit a solid front against Roman Catholicism, a com-

<sup>96</sup> *Ibid.*, pp. 683-684, 689-690.

<sup>97</sup> *Ibid.*, I, 118-119, Dixon, *William Penn* (1851), p. 158. The words are reported as part of a speech which Penn delivered before a committee of Parliament in March, 1678.

mon danger. He took pains, as has been shown, to draw distinctions between popery, which he declared to mean persecution and enforced obedience, and English Protestantism as a whole, including Anglicans and dissenters. The latter he repeatedly classed together as being common in "civil interest." He may have believed that Roman Catholics, then, constituted a group apart and not entitled to the same degree of toleration, at least, as that which was due to Protestants. If this in fact be the explanation, it would be difficult to acquit Penn of a large measure of insincerity. This hypothesis, too, lays too little emphasis on his repeated expressions of detestation for the persecutions employed by the Anglican Church, and it perhaps neglects the friendship which Penn entertained for the Catholic monarch, James II. An alternative explanation may be that in the crisis under discussion Penn played the part of a politician as well as that of an idealist. Fearing that he would lose all if he asked too much, he may have resolved to propose the exclusion of the Catholics in order to secure toleration for the Quakers. It would seem difficult in either case to clear him of all suspicion of insincerity. On the whole, the second hypothesis seems the more plausible. Penn knew well the role of the politician.

During his public life in England, his enemies occasionally charged him with being a papist and even a Jesuit. Such accusations were raised at about the time of his campaigns for the election of Algernon Sidney to Parliament in 1678 and 1679.<sup>98</sup> The well-known intimacy between him and James II later gave increased currency to these charges. In various ways and on several occasions he felt it necessary to deny that he was a Roman Catholic. He declared in an undated "Epistle General to the People of God," that he was innocent "both of the imputation of Jesuitism, Popery, and plots" and asserted that no one on earth could justly charge him "with advancing any one thing that unbecomes a Christian, and an Englishman, neither Popery, blood, money, Popery [*sic*], nor slavery can be laid at my door."<sup>99</sup> He declared before the committee of the Commons in March, 1678, that he

<sup>98</sup> Janney, *op. cit.*, pp. 130, 145; Fisher, *op. cit.*, p. 185; Buell, *op. cit.*, p. 103; Hull, *William Penn: A Topical Biography*, p. 253.

<sup>99</sup> American Philosophical Society MSS, Penn Letters and Ancient Documents, I, 118.



was not "conscious . . . of having receded from an iota of any principle maintained by those first Protestants and Reformers of Germany and our own martyrs at home, against the see of Rome." He asked that if the Quakers must be persecuted, "let us not suffer as Popish recusants but as Protestant dissenters."<sup>100</sup> During the reign of King James, Penn wrote letters to Friends in America expressing disapproval of the policy of Louis XIV toward the Huguenots. He described to James Harrison, in 1685, the cruelties of the French persecutions, as a result of which, he declared, there was "not a meeting of Protestants left."<sup>101</sup> About six months later he reported to the same correspondent that there was "great cruelty there [in France] to the Protestants, many coming to you."<sup>102</sup> He attributed the malady then afflicting Louis XIV to his persecutions of the Huguenots: "... the King of France very ill, an hand of God upon him, a stenchy fistel [*sic*] that ever since his violent usage of the poor Protestants has followed him. . . . God hates persecution. . . ." <sup>103</sup> Penn took the time on several occasions to write formal denials that he was a Roman Catholic, and he was assisted in this effort by Willem Sewel, the Dutch Quaker historian.<sup>104</sup> As late as 1708, Penn thought it dangerous to be suspected of sympathies with the Church of Rome. Having received a complaint against the government of his colony to the effect, as he put it, "that you suffer public mass in a scandalous manner," he requested Logan to inform him about the matter, "for ill use is made of it against us here."<sup>105</sup> In sum, the extant writings of William Penn leave no basis for the charges of Catholicism raised against him. Rather, they make it clear that to no little extent he shared the contemporary Protestant fear and distrust of Rome.<sup>106</sup>

Penn's missionary zeal not only drove him to long preaching

<sup>100</sup> Janney, *op. cit.*, pp. 131-132; Stoughton, *William Penn*, pp. 148-150 Compare Fisher, *op. cit.*, pp. 194-196.

<sup>101</sup> Penn to Harrison, Oct. 25, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 18.

<sup>102</sup> Same to same, April 24, 1686, Penn MSS, X, Dom. & Misc. Letters, p. 26.

<sup>103</sup> Penn to Turner, April 24, 1686, Dreer Collection—William Penn's Letters, p. 15.

<sup>104</sup> See Hull, *Willem Sewel of Amsterdam*, pp. 88-94; Hull, *William Penn: A Topical Biography*, pp. 241-265.

<sup>105</sup> Penn to Logan, Sept. 29, 1708, Penn MSS—Penn Family to Logan, I, 43.

<sup>106</sup> Griffin, "William Penn, the Friend of Catholics," American Catholic Historical Society of Philadelphia, *Records*, I (1884-1886), 71-85, without citing all the sources, defends Penn against charges that he was intolerant of Catholics. There

tours in his own country and on the Continent for the purpose of converting other Christians to the doctrines of the Friends; but it also led him to give some thought to the redemption of the Jews. His most important effort to bring about their conversion was his pamphlet, published in 1695, entitled *A Visitation to the Jews*.<sup>107</sup> This treatise is a sermon attempting to prove to the Hebrews the divinity of Jesus by citing the miracles reported in the New Testament. Penn reminded the Jews that their forbears had said to Pilate at the time of the Crucifixion, "His blood be on us and our children." Then he referred to the "unparalleled miseries that people fell by," the overthrow of the Jewish liberties by the Romans, and "the long captivity they have lain under ever since." Did Penn include among the "unparalleled miseries" the persecutions to which Christians had subjected the Jews? If so, could his logic have justified intolerance as a merited penalty? His treatise is silent on both points.

Penn devoted a large part of his early literary activity to religious controversy. Particularly during the years from 1668 to 1675 he spent much time in public debates and in drafting many vigorous polemics to defend the doctrines and practices of the Friends. Most of these arguments were conducted neither with Anglicans nor with Roman Catholics, but with champions of the dissenting sects. Presbyterians, Baptists, Anabaptists, Independents, and even other Quakers joined issue with him in these wars of rostrum and pamphlet. Judged by the standards of the present, many of these polemical writings, like much of the hearty controversial literature of the seventeenth century, were violent and abusive. They hardly express a spirit which today would be termed tolerant. As Penn left his youth behind, these diatribes became rarer, and his later literary efforts were generally expended in fields of a wider and more permanent interest. Whether age brought more gentleness and tolerance or merely other preoccupations to William Penn cannot, perhaps, be certainly determined.

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need be, says this Catholic writer, no "hesitation on the part of Catholics to express admiration for the Founder of Pennsylvania." Pennsylvania, moreover, says Griffin, was the only colony which "tolerated the Mass, though many thought it a 'scandal' and idolatrous."

<sup>107</sup> *Works*, II, 848-853

Allusion has been made earlier to the "general and practical religion" which Penn stated as his ideal in *England's Present Interest*. An examination of this book reveals the essentials which he thought should characterize the religion of a society and the benefits which would result from such a regime. "The ten commandments, or moral law, and Christ's sermon upon the mount" were the basis of the true religion, combined with the famous injunction of James, as Penn amended it, "to visit the widow and fatherless, and to keep ourselves through the universal grace, unspotted of the world." As if to disavow the youthful disputations upon theological points, Penn wrote:

No one thing is more unaccountable and condemnable among men than their uncharitable contests about religion, indeed, about words and phrases, while they all verbally meet in the most, if not only, necessary part of Christian religion; for nothing is more certain than if men would but live up to one-half of what they know in their consciences they ought to practise, their edge would be taken off, their blood would be sweetened by mercy and truth, and this unnatural sharpness qualified.... Oh, how decent and how delightful would it be to see mankind, the creation of one God, That hath upheld them to this day, of one accord, at least in the weighty things of God's holy law! <sup>108</sup>

Penn offered reasons why the adoption of such a general religion would benefit society. The first was that in this general religion all the "religious persuasions" of the country would be included; toleration would reign, for if there were no penal laws, "there is no fear of the people's love and duty." Secondly, general religion would bring back "ancient virtue." Under this ideal regime, wrote Penn, "Good living will thrive in this soil; men will grow honest, trusty, and temperate; we may expect good neighborhood and cordial friendship; one may then depend more upon a word than now upon an oath." Thirdly, the assurance that the fruits of toil were not to be forfeited as a penalty for religious dissent would insure that men became more industrious and diligent. The consequence would be to "increase our manufacture, set the idle and poor to work for their livelihood, and enable the several countries with more ease and decency to maintain the aged and impotent

<sup>108</sup> *Ibid.*, I, 701-702.

among them." Fourthly, general religion would "render the magistrate's province more facile and government a safe as well as easy thing." Under these ideal conditions, declared Penn,

the very natures of men, now wild and froward by a prejudiced education and cross and jealous interests, would learn moderation, and see it to be their greatest interest to pursue a sober and amicable conversation; which would ease the magistrate of much of his present trouble and increase the number of men fit to govern; of which the parliament-times are an undeniable instance.

One may easily question whether Penn was not claiming too much for his proposed reform, but few will deny that an elimination of religious intolerance would effect a substantial improvement in the life of the nation. Penn's final remarks would probably receive more general acceptance than the others. He concluded his list of desirable consequences of the adoption of a general religion by pointing out the benefit of permitting talented men of all creeds to participate in the government of the state. "Lastly," he wrote, "it is out of this nursery of virtue, men should be drawn to be planted in the government; not what is their opinion, but what is [*sic*] their manners and capacity? Here the field is large, and the magistrate has room to choose good officers for the public good. . . ." <sup>109</sup> Penn had stated as early as March, 1667, his argument that diversity of religious faith strengthened rather than weakened a nation. <sup>110</sup>

The building of a commonwealth dedicated to religious toleration is, of course, the chief service of the Founder to the cause and the greatest monument to his devotion to liberty. Freedom of conscience for the Quakers was the first issue—and always the most important issue—in behalf of which he did battle. The great purpose of the "holy experiment" he stated in a letter to Mompesson:

I went thither [to America] to lay the foundation of a free colony for all mankind that should go thither, more especially those of my own profession; not that I would lessen the civil liberties of others because of their persuasion, but screen and defend our own from any infringement on that account. <sup>111</sup>

<sup>109</sup> *Ibid*, pp. 702-703.

<sup>110</sup> Letter Book, 1667-1675, pp. 166-167; printed in *Works*, I, 2-3.

<sup>111</sup> Penn to Mompesson, Feb. 17, 1704/5, *Penn and Logan Correspondence*, I, 373. Channing, "William Penn," *Amer. Hist. Assoc., Annual Rept*, 1906, I, 195,

As a practical matter, however, Penn's attitude with respect to the extent of the religious freedom to be granted was not always the same. In the so-called Charter or Fundamental Laws of West Jersey Agreed upon of 1677,<sup>112</sup> signed by Penn and believed to have been written chiefly, if not entirely, by him,<sup>113</sup> appears a series of provisions to safeguard "fundamental rights and privileges." Chapter XVI of these Concessions established freedom of conscience with no restrictions whatever. It provided:

That no men, nor number of men upon earth, hath power or authority to rule over men's consciences in religious matters. Therefore, it is consented, agreed, and ordained: that no person or persons whatsoever within the said province, at any time or times hereafter, shall be in any ways upon any pretence whatsoever called in question, or in the least punished or hurt, either in person, estate, or privilege for the sake of his opinion, judgment, faith, or worship towards God in matters of religion. But that all and every such person and persons may from time to time and at all times freely and fully have and enjoy his and their judgments and the exercise of their consciences in matters of religious worship throughout all the said province.<sup>114</sup>

Penn stated his views on religious liberty in the early draft of the fundamental constitutions of Pennsylvania. It would appear from this document that he did not contemplate freedom for all sorts and conditions of men; he desired freedom of worship for all believers in God, but he did not wish abuse of this "Christian liberty." Thus he wrote:

writes: "Pennsylvania, according to the ideas of Penn and his fellow-workers, was clearly designed to be essentially a Quaker colony, although their religious tenets forbade them to exclude any from their midst on the ground merely of religious belief"

<sup>112</sup> Whitehead, *Documents*, I, 252-270; Samuel Smith, *The History of New Jersey*, p. 529.

<sup>113</sup> Clarkson, *Memoirs of the Private and Public Life of William Penn*, I, 170, Jernegan, *The American Colonies*, p. 207; Hull, *William Penn: A Topical Biography*, pp. 219, 225.

<sup>114</sup> Samuel Smith, *op. cit.*, pp. 513-514, shows that eleven years before Penn's Concessions and Agreements, Berkeley and Carteret, who on June 23 and 24, 1664, had received the region by deeds of lease and release from the Duke of York, had promised the settlers in Nova-Caesaria religious freedom with some limitation. This limitation was contained in the eighth item of the concessions of Berkeley and Carteret. It permitted the legislature to set up and maintain a religious establishment, "giving liberty beside to any person or persons to keep and maintain what preachers or ministers they please." Penn's Concessions were, of course, more far-reaching than those of Berkeley and Carteret. Later, while a religious establishment was forbidden, belief in God was required of those who wished to be protected by the law for religious toleration.

In reverence to God the Father of lights and spirits, the Author as well as Object of all Divine knowledge, faith, and worship, I do hereby declare for me and mine and establish it for the first fundamental of the government of my country, that every person that does or shall reside therein shall have and enjoy the free possession of his or her faith and exercise or worship towards God, in such way and manner as every person shall in conscience believe is most acceptable to God and so long as every such person useth not this Christian liberty to licentiousness, that is to say, to speak loosely and profanely of God, Christ, or religion, or to commit any evil in their conversation, he or she shall be protected in the enjoyment of the aforesaid Christian liberty by the civil magistrate.<sup>115</sup>

This document did not guarantee freedom of religion for atheists, nor did it contemplate free speech for those who lacked proper respect for the Christian faith or doctrine. It has been shown that in his *Persuasive to Moderation* Penn indicated that there should be some limitations upon perfect freedom of conscience. He evidently believed in the necessity for some restrictions upon the right of religious expression.

The passage just quoted appeared not in the First Frame as finally promulgated, but in one of the drafts preliminary thereto. It was never, therefore, the law for Pennsylvania. In the First Frame there is no provision dealing with the freedom of conscience. Why Penn thought at one time that "the free possession of his or her faith and exercise of worship towards God" was important enough for the inhabitants of Pennsylvania to be guaranteed as "the first fundamental of the government" thereof, and then issued the Frame in its final form without any mention of this vital matter does not appear. Perhaps reflection convinced him that such a provision would more properly be in statutory than in constitutional form. Yet such a conclusion does not harmonize with the Quaker's reiterated insistence that the right of freedom of conscience was fundamental in nature.

The Laws Agreed upon for Pennsylvania, signed and sealed by the governor and freemen on May 5, 1682, followed Penn's theories about religious toleration for socially minded persons who believed in God. Article XXXV of these enactments provided as follows:

<sup>115</sup> *The Pennsylvania Magazine of History and Biography*, XX (1896), 286-287.

That all persons living in this province who confess and acknowledge the one Almighty and Eternal God to be the Creator, Upholder, and Ruler of the world, and that hold themselves obliged in conscience to live peaceably and justly in civil society, shall in no ways be molested or prejudiced for their religious persuasion or practice in matters of faith and worship; nor shall they be compelled at any time to frequent or maintain any religious worship, place, or ministry whatever.<sup>116</sup>

The substance of this declaration was enacted into law on December 7, 1682, as the famous first article of the Great Law.<sup>117</sup> Though it did not so absolutely guarantee toleration of religious opinion, this provision was a marked advance over contemporary religious legislation in England.

The Charter dated October 28, 1701, the last colonial frame for Pennsylvania, contained but nine articles. The first dealt with religious toleration. It accorded liberty of conscience to all who "confess and acknowledge one Almighty God."<sup>118</sup> It opened the right to hold legislative and executive offices to those who professed belief in Jesus Christ. According to Quarry, as reported by Keith, this provision granting indulgence to deists and permitting Roman Catholics to hold office was later the source of discontent in the Lower Counties.<sup>119</sup>

William Penn conceived the proper relations between church and state in terms of Jesus' famous answer to the question about tribute: "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's." As an introduction to the declaration for religious liberty in the early draft of the "Fundamentall Constitutions," Penn wrote a lengthy preamble, in which he set forth this doctrine of the separation of church and state. He said "that it is impossible that any people or government should ever prosper where men render not unto God that which is God's as well as to Caesar that which is Caesar's."<sup>120</sup> He referred again to this concept in the *Persuasive to Moderation*.<sup>121</sup> When he delivered the Quaker address of thanks to King

<sup>116</sup> Hazard, *Annals of Pennsylvania*, p. 573

<sup>117</sup> *Ibid.*, p. 620.

<sup>118</sup> Thorpe, *The Federal and State Constitutions*, V, 3077.

<sup>119</sup> Keith, *Chronicles of Pennsylvania from the English Revolution to the Peace of Aix-la-Chapelle, 1688-1748*, I, 411. See also Sharpless, *A Quaker Experiment*, Part I, p. 64.

<sup>120</sup> *The Pennsylvania Magazine of History and Biography*, XX, (1896), 286.

<sup>121</sup> *Works*, II, 729.

James in 1687 for that monarch's royal edict of toleration for non-Anglican sects, Penn praised the ruler for having given "an illustrious example in his own person . . . For while he was a subject, he gave Caesar his tribute; and now he is Caesar, gives God His due,—viz. the sovereignty over consciences."<sup>122</sup>

William Penn's record as an advocate of religious toleration is clouded by several compromises. He did not believe in complete freedom of worship. He shared some of the prejudices of his day against the Roman Catholics. Since many of his influential contemporaries thought there was a very real danger that an alliance of English papists and foreign powers might overthrow English Protestantism, Penn's attitude toward the Catholics may have been the result more of his estimate of the current political situation than of his abstract philosophy. He protested on occasion that papists ought not to suffer for their religion, but his practical proposals to secure toleration in England never extended in any adequate measure to them. He wished toleration for all Protestants. He was ever the enemy of cruel and violent persecution for religion. Others anticipated him in bestowing a measure of religious toleration upon their settlers or compatriots in American provinces. Penn, however, like Roger Williams, stands forth as one who, having secured a haven in the New World for his people, accorded there to all Christian sects the liberty he asked for his own.<sup>123</sup>

<sup>122</sup> *Ibid.*, I, 130

<sup>123</sup> Ranke, *op. cit.*, p. 100, writes that Penn's idea on this problem was that civil life should be independent from particular creeds; and that religion, therefore, should be free from every limitation imposed by the connection of church and state. For a Quaker view of Penn's ideals of religious toleration, see Jones, "The Dynamic of William Penn," *Friends Intelligencer*, Vol. LXXXIX (1932), No. 47, pp. 929-930.



## Chapter VII

### COUNTRY GENTLEMAN AND HIS DEPENDENTS

*Choose God's trades before men's Adam was a gardener, Cain a ploughman, and Abel a grazier or shepherd these began with the world, and have least of snare, and most of use*

*The country life is to be preferred, for there we see the works of God; but in cities, little else but the works of men and the one makes a better subject for our contemplation than the other.*

*But a true servant is the contrary he is diligent, careful, trusty He tells no tales, reveals no secrets, refuses no pains, is not to be tempted by gain, or awed by fear, to unfaithfulness.*

*Such a servant serves God, in serving his master; and has double wages for his work, to wit, here and hereafter* —WILLIAM PENN

LIKE many another idealist, William Penn believed in the superiority of the rural life to the urban. He advised his wife and children on the eve of his departure for America in 1682 to beware "of cities and towns of concourse."<sup>1</sup> A section devoted to aphorisms about "A Country Life" in *Fruits of Solitude* sets forth his views on that subject. "The country life is to be preferred," he wrote, "for there we see the works of God; but in cities, little else but the works of men: and the one makes a better subject for our contemplation than the other." To him the country was "both the philosopher's garden and library, in which he reads and contemplates the power, wisdom, and goodness of God." It was "a sweet and natural retreat from noise and talk, and allows opportunity for reflection, and gives the best subjects for it."<sup>2</sup> In the manner of the agrarian philosophers of the later eighteenth century and rustic preachers of more recent times, Penn thought that there was something wrong with the city and its ways. He wrote Hannah Callowhill, his future wife, that country-bred serv-

<sup>1</sup> This advice appears in the famous letter of Aug. 4, 1682, written by Penn upon the eve of his departure for America. As indicated in an earlier chapter, the letter may be read in Janney, *The Life of William Penn*, pp. 187-193.

<sup>2</sup> *Fruits of Solitude*, p. 50.

ants were superior to those trained in the city, for the latter were proud, conceited, and gossiping, and were often "above direction or overrate their qualifications" <sup>3</sup> Agriculture was the best of vocations, and he advised his children, with Scriptural quotations, to "choose God's trades before men's." To emphasize his words he declared that "when Cain became murderer, as a witty man said, he turned a builder of cities and quitted his husbandry." <sup>4</sup> He wrote among his maxims that "the knowledge and improvement" of a country life is "man's oldest business and trade, and the best he can be of." <sup>5</sup> When Penn himself turned "builder of cities," he expressed the wish that Philadelphia be kept "a green country town, which will never be burned and always be wholesome." His ideal for the new city was a spacious community with large lots surrounding each dwelling "for gardens or orchards or fields." <sup>6</sup> Such an urban settlement would have little in common physically with the crowded London or even the Bristol of his day.

Rural life offered to the body politic economic and social advantages upon which Penn enlarged in his essay on the reasons for colonization.<sup>7</sup> In former times the aristocrats of the land "spent their estates in the country and kept the people in it, and their servants married and sat at easy rents under their masters' favor, which peopled the place. . . ." In more modern days, however, "the great men, too much loving the town and resorting to London, draw many people thither to attend them, who either do not marry, or if they do, they pine away their small gains in some petty shop, for there are so many they prey upon one another." The decline of English country life was exemplified in the decrease in the rural population; with "no due balance kept between trade and husbandry, city and country," the farmer lacked the labor properly to work his soil so that with rents fixed, his income fell off. Without regard to the incongruity of the two arguments, Penn followed this line of reasoning with an expression of regret for

<sup>3</sup> Penn to Hannah Callowhill, April 1, 1695, Penn-Forbes Collection, I, 63.

<sup>4</sup> *Works*, I, 898.

<sup>5</sup> *Ibid.*, p. 831.

<sup>6</sup> For Penn's directions as to the laying-out of Philadelphia, see the printed copy in Hist. Soc. of Pa., *Memoirs*, Vol. II, Part I, pp. 220-221. See also Hazard, *Annals of Pennsylvania*, pp. 505-513.

<sup>7</sup> The argument is stated in Penn, "Proposals to Adventurers," issued in 1681. See the extracts in Hazard, *loc. cit.*

"the decay of some country manufactures," which produced rural unemployment. Such conditions induced the "more industrious to go abroad to seek their bread in other countries" and gave "the lazy an occasion to loiter and beg, or do worse, by which means the land swarms with beggars." That a land swarming with beggars should also be a land suffering from shortage of labor did not apparently strike Penn as an absurdity. In both arguments, however, he was consistent in his assertion that the decay of rural life was a calamity.

Aside from these philosophical considerations there is much evidence to show that if he had had freedom of choice, Penn would have preferred the life of a country gentleman in Pennsylvania to that of a courtier in and about Whitehall and London. In letter after letter to Pennsylvania during his sojourn in Europe after his first return from America, he expressed the hope that "the Lord will open my way back this fall"; that "my face will be turning towards you"; that "I shall be with you as soon as ever I can"; that "for my coming over . . . I press what I can"; that "no poor slave in Turkey desires more earnestly, I believe, for deliverance than I do to be with you."<sup>8</sup> As the years passed, such letters continued; but by 1689 he was less optimistic.<sup>9</sup> In the troublous times following the Glorious Revolution he wrote: "I suffer by this voyage for England and stay here, which is so far from my choice that it is, and has been, the affliction of my spirit, as often as I have had it in my mind. . . ." <sup>10</sup>

In his later years he repeatedly indicated his wish to dwell permanently in America. He told the assembly of Pennsylvania in March, 1700: "I hope I or mine shall be with you while I or they live. . . ." <sup>11</sup> His departure in 1701 prompted him to express regret

<sup>8</sup> See the following letters of Penn to: Harrison, March 18, 1684/5, Penn MSS, X, Dom. & Misc. Letters, p. 10, Thomas Lloyd, Simcock, Taylor, Harrison, and Turner, July 13, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 79, "Esteemed Friends and Counsellors," Aug. 19, 1685, Gratz Collection, Case 2, Box 33; Harrison, Oct. 4, 1685, April 24, 1686, and undated, Penn MSS, X, Dom. & Misc. Letters, pp. 16, 26, and 27, respectively.

<sup>9</sup> Penn to Harrison, Oct. 10, 1686, Oct. 22, 1687; and Penn to — [the provincial council?] Sept. 17, 1687, Penn MSS, X, Dom. & Misc. Letters, pp. 30, 35, 86. See also Penn to Turner, Oct. 4, 1689, Dreer Collection—William Penn's Letters, p. 30.

<sup>10</sup> Penn to Friends, Sept. 15, 1690, Dreer Collection—William Penn's Letters, p. 33.

<sup>11</sup> *Pennsylvania Archives*, 4th series: *Papers of the Governors*, I, 111.

that he was compelled to leave for England and to promise that "no unkindness or disappointment shall, with submission to God's providence, ever be able to alter my love to the country and resolution to return and settle my family and posterity in it."<sup>12</sup> As one weary of civilization, he wrote in 1703 to Logan: "For your solitude and beginning of the world there is more simple and retired, and so esteemed by me, than the crowds of opulency and curiosity which fill these parts."<sup>13</sup> He preserved his desire to return to his province and dwell there even after he had begun to bargain with the royal government for the surrender of his political control over Pennsylvania. Reporting in 1703 that he had undertaken these negotiations, he added, "But that shall never weaken my love to and residence in Pennsylvania and so I command by will my posterity."<sup>14</sup> Letters composed in the course of the following five years show his fixed resolution to return to America; and in 1711 he assured friends in Pennsylvania "that nothing but our eternal felicity is more our prayer to the Lord than that we may live, if not die, among you and you [yours?]. . . ." <sup>15</sup>

It is not to be concluded from these expressions of Penn that he wished to return to America wholly because of the pure love of rural life. During the period succeeding his first return to England, particularly, other considerations were of great moment to him. In the first place, his province seethed with political quarrels. These he thought he could settle, or, at least, mitigate. In the second place, his interests were suffering seriously through the failure of his agents to collect the quitrents due him and also through the neglect of his property.<sup>16</sup> Finally, though he did not

<sup>12</sup> Penn's speech to the Assembly, Sept. 15, 1701, Logan Papers, III, 21.

<sup>13</sup> Penn to Logan, Jan. 10, 1702/3, *Penn and Logan Correspondence*, I, 161.

<sup>14</sup> Same to same, June 6, 1703, Penn MSS—Penn Family to Logan, I, 10. No reference to a command such as that here indicated by Penn appears in either of his two extant wills.

<sup>15</sup> Penn to Friends in Pennsylvania, Feb. 10, 1710/11, Penn MSS, I, Private Correspondence, p. 37. See also Penn to Logan, July 11, 1704, Logan Papers, I, 50, Penn to Carpenter and others, Nov. 18, 1705, Penn MSS—Granville Penn Book, p. 19; Penn to Logan, May 18, 1708, Penn MSS—Penn Family to Logan, I, 42.

<sup>16</sup> Penn proposed in 1693 that Friends in America make up a purse to lend him the money for the expensive voyage to America. He based his hope of a speedy return upon the "visible necessity the Province is under, as well as my own interest." Penn to Friends, Dreer Collection—William Penn's Letters, p. 39. See

say that he was disgusted with the turn taken by English politics and with the adversities which he endured following the overthrow of James II, it would not be surprising if as a result he had chosen to seek in Pennsylvania "a sweet and natural retreat from noise and talk." During the later period, however, the tone of his letters does indicate that his main motive was the desire to live in comfortable retirement in the province which he had made.

Penn's care in planning his estate, the construction of his house, and the improvement of his grounds at Pennsbury show that he intended to adopt the style of living of a country gentleman. He gave to James Harrison and to Phineas Pemberton detailed instructions about his property and the estates of his children.<sup>17</sup> He sent a man to the commissioners of property in Pennsylvania to "look after my house and gardens, etc., to see that things be kept in some degree of order."<sup>18</sup> He directed Logan in 1703 to keep up his property, to plant some fruit trees, and to purchase more land, "for Pennsbury will hardly accommodate my son's family and mine, unless enlarged."<sup>19</sup> As late as 1709 he asked the secretary to get him "Daniel Peggs's, or such a remote place for me and family, in good order by the first day of next fourth month, if the Lord please, if not sooner. Let Pennsbury be in inhabitable order, with the gardens, that we may subsist in good measure upon it for a spare food and living, both me and mine. . . ." <sup>20</sup>

The Founder's life at the manor house of Pennsbury suggests rather the country gentleman than the Quaker preacher. He lived in comfort and even rustic luxury. He loved fine horses and took particular pleasure in a boat or barge used to travel to and from Philadelphia.<sup>21</sup> One biographer has implied that his voyages on this

also Penn to "Esteemed Friends and Counsellors," Aug. 19, 1685, Gratz Collection, Case 2, Box 33, Penn to Harrison, undated, Penn MSS, X, Dom. & Misc. Letters, p. 28, same to same, Jan 28, 1686, and Oct 22, 1687, pp. 32, 35.

<sup>17</sup> Penn to Harrison, March 18 and May 19, 1685, Penn MSS, X, Dom. & Misc. Letters, pp. 10, 12; Penn to Pemberton, Feb. 8, 1686, Etting Collection—Early Quakers and Penn Family, p. 4.

<sup>18</sup> Penn to the Commissioners of Property [Markham, Turner, Goodson, and Carpenter], Dec 4, 1690, Dreer Collection—William Penn's Letters, p. 35.

<sup>19</sup> Penn to Logan, April 1, 1703, *Penn and Logan Correspondence*, I, 181.

<sup>20</sup> Same to same, June 26, 1709, Penn MSS—Penn Family to Logan, I, 46

<sup>21</sup> Penn to Harrison, May 19 and July 11, 1685, Penn MSS, X, Dom. & Misc. Letters, pp. 12, 13. Janney, *op. cit.*, pp. 413-420 ff.; Graham, *William Penn*, p. 259;

barge were not without some of the characteristics of a state progress.<sup>22</sup> Moreover, both in England and in America Penn had a long roll of dependents, clients, or pensioners, who looked upon him as their patron and protector. During the reign of James II he had almost the character of a Roman grandee, drawing in his train a numerous horde of those who sought favor at the hand of power.<sup>23</sup> It cannot be argued from these facts that Penn abandoned his character as Quaker. It is clear that at the height of his power and influence at court he remained the active preacher and missionary.<sup>24</sup> With all his preachments regarding humility, however, Penn loved the role of influential gentleman and was not averse to outward manifestations of that position. Probably he thought some display more or less necessary to maintain the authority and prestige of office and social position. Without the exercise of influence and prestige it would have been impossible to accomplish his aims. Political Utopias are not realized by those who love obscurity, peace, and freedom from the publicity of politics.

That Penn considered his position as proprietor one of no little dignity is evident from other sources. During the earlier stages of the quarrel with Lord Baltimore over the boundary between the Quaker's territories and Maryland, he wrote what he

Buell, *William Penn*, pp. 163-164, 246-247, quoting Watson; Pound, *The Penns of Pennsylvania and England*, pp. 236-239, Hull, *William Penn: A Topical Biography*, p. 314.

<sup>22</sup> Fisher, *The True William Penn*, p. 353; see also Pound, *op. cit.*, p. 239.

<sup>23</sup> Janney, *op. cit.*, pp. 288-297. Penn has been pictured as the patron of at least two hundred clients on occasion. Croese, referring to Penn's clientele, wrote: "Vidi quandoque de hoc genere hominum non minus bis centum" *Historia Quakeriana*, Lib. II (1695), quoted in Macaulay, *The History of England from the Accession of James the Second*, II, 94-95 and note 1. In the Journal of the Board of Trade, under date of Nov. 24, 1697, is an entry indicating that at that time Penn was acting as an agent for some Quakers in Maryland in their dealings with the Board of Trade. B.T.J., X, 352. For other examples of Penn's activities as friend at court, see such of his communications as the following to the Earl of Middlesex and Dorset, undated, Hist. MSS Com., 4th Report, Part I, Rept. and App., MSS of the Earl de la Warr, p. 298; to Sir G. Treby, Lord Chief Justice, Nov. 22, 1697, and to same, Feb. 20, 1699, Hist. MSS Com., 13th Report, App., Part VI, Fitzherbert MSS, pp. 46, 47; to an unknown addressee, May 12, 1705, and to James, first Earl of Seafield, Sept. 20, 1707, Hist. MSS Com., 14th Report, App. III, MSS of the Countess Dowager of Seafield, pp. 220-221, 222, to Harley, May 1, 1705, and to same, Aug. 24, 1705, Hist. MSS Com., 15th Report, App., Part IV, Portland MSS, pp. 176, 230.

<sup>24</sup> Penn to Harrison, Sept. 23, 1686, Penn MSS, X, Dom. & Misc. Letters, p. 29; Fisher, *op. cit.*, p. 270; Clarkson, *Memoirs of the Private and Public Life of William Penn*, I, 496, citing Whiting's *Memoirs*.

described as an "Answer to a Demand made to Nicholas Moore, as my Deputy, by Colonel Talbot, the twenty-fourth September, 1683, in pursuance of a Commission from the Lord Baltimore, Proprietary of Maryland and Avalon, dated the seventeenth of the same month." Penn declared in this communication:

It seems very slight, abrupt, and unprecedented for any person that is in the quality of a proprietary of a country to send to another in the same circumstance any extraordinary messenger, agent, or commissioner without some letter or memorial to state the demand with the reasons of it. The practices of the greatest princes and might therefore (I conceive) be the condescension of lesser seigniories.

Following this protest, he added another emphatic thrust in defense of his wounded dignity: "In the next place, William Penn, esq. and the said Penn (the language of the commission) is not my American style, nor that which belongs to me in the matter in question, for as such I keep no deputies."<sup>25</sup> A draft of Penn's petition for the restoration of his province recites that Pennsylvania was in the "nature of a seignory or palatinate."<sup>26</sup> Penn asserted to Secretary Vernon in 1700 with regard to certain fees that he, "as lord of the soil erected into a seignory, must needs have a royalty and share herein, else I am in much meaner circumstances than any lord of a manor upon the seacoasts in England, Ireland, or Scotland."<sup>27</sup>

Penn's insistence upon the payment of quitrents is another example of his regard not only for the rights of property but also for the dignity of his position. He considered these dues a vested right. His demands for them brought much unpopularity upon the proprietary government, and Benjamin Franklin later gave expression to the general hatred of these exactions.<sup>28</sup> Penn's quitrents were

<sup>25</sup> Penn vs. Baltimore—Lands on Delaware Bay, 1683.

<sup>26</sup> American Philosophical Society MSS, Penn Letters and Ancient Documents, I, 78 This paper is not an autograph of Penn, though it seems to have been interlined by him. There is no signature

<sup>27</sup> Penn to Vernon, March 10, 1700/1701, Letter Book, 1699-1701, p. 8.

<sup>28</sup> Franklin, *Historical Review of Pennsylvania*, p. 14. Bond, *The Quit-Rent System in the American Colonies*, pp. 15-16 and 15, note 1, has shown that in a narrow sense the quitrent was not a feudal notion. It "was originally a commutation in money of certain medieval villein obligations, such as laboring for the lord of the manor a number of days in the week and paying to him a portion of the produce of the villein's land and stock. . . But later the quit-rent was used to designate any form of payment, which absolved or made quit the tenant,

always in arrears. He agreed to postpone their collection until after 1684; when he returned to England, disputes arose in the colony as to whether they were to be paid at the opening or the close of 1685.<sup>29</sup> In 1698 he wrote about his quitrents, "of which I have not seen for twelve years one six pence."<sup>30</sup> After his second visit to America he became more insistent about collection. In letter after letter to Logan he by turns bitterly accused, somewhat complacently forgave, and stormily denounced, the renters who persisted in denying him his rights.<sup>31</sup> In 1707 he urged the secretary to "cherish or threaten tenants as they give occasion for either."<sup>32</sup>

The royal Charter conferring upon Penn his authority as "the true and absolute proprietary" of Pennsylvania was unmistakably a feudal grant.<sup>33</sup> Penn received viceregal powers, among which were the rights to dispose of land and to erect manors. His title to the soil, as Shepherd has pointed out, was not allodial but feudal; he granted lands, therefore, not as allods but as tenements, subject to feudal obligations.<sup>34</sup> He was authorized to "divide the said country and islands into towns, hundreds, and counties," to lay out cities, to set up fairs and markets in the province. He was empowered to transport settlers to Pennsylvania, "there to settle themselves, dwell and inhabit, and plant, for the public and their own private advantage."<sup>35</sup> He was thus constituted the lord of enormous areas of undeveloped territory with absolute power to distribute and settle it.

Penn received the territorial powers implied in his grant with

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whether vassal, freeholder, copyholder, or leaseholder, in respect of personal service or other similar obligation to the lord." For a brief account of quitrents in Pennsylvania, see Shepherd, "The Land System of Provincial Pennsylvania," Amer. Hist. Assoc., *Annual Rept.*, 1895, p. 121.

<sup>29</sup> Penn to Harrison, undated, Penn MSS, X, Dom. & Misc. Letters, p. 28. See also *Col. Rec.*, I, 27.

<sup>30</sup> Penn to "Loving Friends," May 2, 1698, Penn MSS—Granville Penn Book, p. 24.

<sup>31</sup> Penn to Logan, Nov. 3, 1701, *Penn and Logan Correspondence*, I, 59-60; same to same, Dec. 31, 1703, and Sept. 16, 1704, Logan Papers, I, 46, 51.

<sup>32</sup> Same to same, June 10, 1707, *Penn and Logan Correspondence*, II, 229.

<sup>33</sup> Thorpe, *The Federal and State Constitutions*, V, 3035-3044.

<sup>34</sup> Shepherd, "The Land System of Provincial Pennsylvania," Amer. Hist. Assoc., *Annual Rept.*, 1895, p. 117. Compare Osgood, *The American Colonies in the Seventeenth Century*, II, 4-5.

<sup>35</sup> Articles VIII and IX of the Charter.



satisfaction and even joy.<sup>36</sup> He was bent upon his "holy experiment," and this object furnished the primary motive for his activity in Pennsylvania. Mingled with it, however, was his appreciation of the economic uses of real estate. His frequently expressed disappointment about the failure of his quitrents to yield the expected return would suggest that ultimately, at least, the idealistic motives were accompanied by more practical considerations. As early as the summer of 1681 he wrote to James Harrison, stipulating certain terms for the purchase or rent of lands in Pennsylvania, "else none would buy or rent, and so I should make nothing of my country."<sup>37</sup> In 1692, when he received word that the royal governor, Fletcher, had been given political control over the province, Penn informed him in definite language that the rights of the proprietor must be respected.<sup>38</sup>

William Penn was not only a country gentleman and in a sense a feudal lord; he was a large dealer in real estate. He undertook an energetic and highly successful program of advertising to attract settlers to his province.<sup>39</sup> He was glad to have immigrants from all parts of the British Isles, but he was not content to stop there. He had pamphlets translated into foreign languages and circulated Dutch and German versions in Holland and Germany. One of the

<sup>36</sup> Penn "for the inhabitants of Pennsylvania," April 8, 1681, Hazard, *Annals of Pennsylvania*, pp. 502-503. See also Penn to Harrison, Aug. 25, 1681, Hazard, *Annals of Pennsylvania*, pp. 522-524. St Paul, "Governor Thomas Dongan's Expansion Policy," *Mid-America*, Vol. XVII, No. 3 (July, 1935; new series, Vol. VI), pp. 176-182, thinks that Penn was not too scrupulous in his assertion of claims to what he thought his chartered territory.

<sup>37</sup> Hazard, *Annals of Pennsylvania*, p. 523. At about the same time, however, Penn wrote that: "Mine eye is to a blessed government and a virtuous, ingenious, and industrious society, so as people may live well and have more time to serve the Lord than in this crowded land [England]..." Penn to Janney, Aug. 21, 1681, Society Collection.

<sup>38</sup> Penn to Fletcher, Dec. 5, 1692, C.S.P., XIII, 743-744.

<sup>39</sup> Hull, *William Penn and the Dutch Quaker Migration to Pennsylvania*, p. 302, reports the remarks of a young English physician who heard Penn preach in Rotterdam. This observer said: "Some seriously look'd upon the Preacher [Penn] to come to propagate the Gospel that was here planted among that odd sort of Christians [the Quakers]; other Waggs more witty, thought his coming was only to get some more Proselytes or Planters for his large Plantations in America." Professor Hull calls Pennsylvania "probably the best advertised of all the American colonies." See also *ibid.*, pp. 123-177, 308-311, 324-325; Myers, *Immigration of the Irish Quakers into Pennsylvania, 1682-1750*, p. 42; Graham, *op. cit.*, pp. 133-134; Channing, *A History of the United States*, II, 111, 115-116.

earliest foreign responses came from the Dutch Quakers of Krefeld, who, under the leadership of Francis Daniel Pastorius, arrived in 1683 to settle north of Philadelphia at Germantown.<sup>40</sup> By the act of union of December 7, 1682, through which the three lower counties were annexed to Pennsylvania, a simple and easy process of naturalization was set up for foreigners.<sup>41</sup> Some authorities say that, as a consequence, at least fifty shiploads of immigrants arrived from England, Wales, Ireland, Holland, and Germany within the first three years after Penn's first voyage.<sup>42</sup> Penn repeatedly exulted over the progress the colony had made in increase of population and growth of settlement. His most recent biographer thinks that in some respects he was more successful on the Continent as an advertiser of Pennsylvanian land than he was as a Quaker missionary. Writing to Lord Dartmouth from Philadelphia in 1683, he thanked God that "our affairs . . . go very prosperously. . . . Carolina, Virginia, and Maryland cannot show so much of a town and regular settlement as we have in one year effected. . . ." <sup>43</sup> He thought, in November, 1697, that there might be about fifteen hundred houses in Philadelphia and hazarded a guess that in the whole province there were twelve thousand inhabitants of European blood.<sup>44</sup> In 1701 he reported that the "country improves, not by piracy or forbidden trade, but honest labor and sobriety." <sup>45</sup>

Penn thought of his American province not only as an opportunity to build a new Utopia but as an investment. It has been pointed out in an earlier chapter that at the outset, according to his statement made twenty-five years later, the grant of Pennsylvania represented the payment to him of a debt owed to Sir William Penn by Charles II, amounting in principal and interest

<sup>40</sup> Hull, *William Penn and the Dutch Quaker Migration to Pennsylvania*, p. xi and *passim*, has shown that the first settlers of Germantown were not German Mennonites but Dutch Quakers. See also Sharpless, *Political Leaders of Provincial Pennsylvania*, pp. 69 ff.

<sup>41</sup> Hazard, *Annals of Pennsylvania*, pp. 613-614.

<sup>42</sup> Myers, *op. cit.*, p. 42; C. H. Smith, *The Mennonite Immigration to Pennsylvania in the Eighteenth Century*, pp. 75-122; Bolles, *Pennsylvania: Province and State*, I, 138.

<sup>43</sup> Penn to Dartmouth, July 28, 1683, Taylor Papers, I, 77.

<sup>44</sup> B.T.J., X, 333 (entry for Nov. 1, 1697).

<sup>45</sup> B.T.P., Vol. VI, Part I, G 31. The communication is dated July 2, 1701.

to about sixteen thousand pounds.<sup>46</sup> Though the exact amount of his losses is unknown, this investment cost Penn heavily. In 1688, according to one of his biographers, he estimated his expenses on account of the colony at one hundred and twenty thousand pounds.<sup>47</sup> He reported to the Board of Trade twelve years later that the colony had cost him twenty-four thousand pounds.<sup>48</sup> The following year he told the council that the union of the Lower Counties with Pennsylvania had taken two or three thousand pounds;<sup>49</sup> but in December, 1702, he wrote the Board of Trade that twenty thousand pounds "will not reprice me, as well in soil as government" for "those dear bought counties."<sup>50</sup> On April 11, 1687, he mortgaged province and territories to Philip Ford for six thousand pounds, and in 1690 he conveyed the entire area of both regions to the same creditor without defeasance for six thousand nine hundred pounds.<sup>51</sup> In order finally to liquidate the debt to the Fords, he mortgaged Pennsylvania on October 6, 1708, for six thousand six hundred pounds.<sup>52</sup> Penn once told Logan that that province had cost him "above thirty thousand pounds more than I ever got by it." He wrote Carpenter and others in 1705 that "I have never seen besides the last time, before nor since, three thousand pounds sterling from that province and territories in twenty-four years time that it has been in my possession. . . ." <sup>53</sup> In January, 1711, he told the Board of Trade "that in the whole he had been out of pocket in the settling of that province about fifty thousand pounds" <sup>54</sup> The task of estimating the value of Penn's American lands is made still more complicated

<sup>46</sup> See the copy of the report of the Board of Trade, Feb. 5, 1706/7, Penn MSS, Official Correspondence, I, 41. See also Dartmouth to the Board of Trade, July 31, 1710, B.T.P., IX, P 100. Penn's petition for a grant of land in settlement of his father's estate was presented to the Lords of Trade before June 14, 1678. C.S.P., XII, 640. For a differing interpretation of the motives of the King in granting Pennsylvania see above, chap. iii, p 42, note 1.

<sup>47</sup> Graham, *op. cit.*, p 197.

<sup>48</sup> Penn to the Board of Trade, April 22, 1700, Letter Book, 1699-1701, p. 27.

<sup>49</sup> *Col Rec.*, II, 50 (entry for Oct. 14, 1701).

<sup>50</sup> B.T.P., VII, L 6, endorsed as received and read Dec. 8, 1702

<sup>51</sup> Shepherd, *History of Proprietary Government in Pennsylvania*, p. 187.

<sup>52</sup> *Ibid.*, p. 198. Compare Osgood, *op. cit.*, II, 18

<sup>53</sup> Penn to Carpenter and others, Nov 18, 1705, Penn MSS—Granville Penn Book, p. 19.

<sup>54</sup> B.T.J., XXII, 192 (entry for Jan. 18, 1710/11).

by the necessity of considering the New Jersey territories. West Jersey had been sold to him and two associates in 1675 for one thousand pounds, and in 1682 he and eleven others bought East Jersey for thirty-four hundred.<sup>55</sup> No source known to the writer gives the exact value of Penn's shares. It is probably impossible to arrive at any exact appraisal of the value of Penn's salable real estate in America, but there can be no question that the landed wealth they represented was princely in extent. In the Middle Ages he would have been a feudal proprietor of considerable consequence.

Purchasers were to have free, full, and entire use of such natural features as they had acquired with their land. This provision explicitly covered "all rivers, rivulets, woods, and underwoods, waters, watercourses, quarries, mines, and minerals (except mines royal)." <sup>56</sup> Inducements were offered to encourage "such as are ingenious and willing to search out gold and silver mines in this province." Successful prospectors were to be rewarded by one-fifth of the fruits of their discovery. In his charter to the Free Society of Traders Penn granted to them and their successors the mines and mineral wealth to be found within their twenty thousand acres; but set aside "only the fifth part reserved by the King of England to himself . . . and . . . also one other fifth part of all the ore which shall be found in any mines of gold and silver to me, the said William Penn." <sup>57</sup>

The arrangements in this charter as to land and the wealth thereof are essentially feudal in character.<sup>58</sup> They indicate, of course, the Quaker's acceptance of the theory that the proprietor had the right to a permanent interest in the soil. The institution of quitrents, discussed earlier, is evidence to support this statement. As in all feudal regimes, social distinction rested upon land-holding. In the province of Pennsylvania at this time the suffrage was dependent upon the payment of taxes and the tenure of land.

<sup>55</sup> Jernegan, *The American Colonies*, p. 207.

<sup>56</sup> *Col. Rec.*, I, 27.

<sup>57</sup> Hazard, *Annals of Pennsylvania*, p. 549.

<sup>58</sup> None of the great holdings, however, possessed manorial courts. Osgood, *op. cit.*, p. 29. Shepherd, "The Land System of Provincial Pennsylvania," *Amer. Hist. Assoc., Annual Rept.*, 1895, p. 122, says. "As far as manors were concerned, in the full and strict sense of the term there were no manors in Pennsylvania, whatever the proprietary tenths and other large surveys may have been denominated."

The famous First Frame, despite its liberal preamble, was so favorable to the landholding classes that Shepherd thought the final form of the document a concession to the large landholders, "who by their position as councillors might in their powers of legislation dominate the assembly, and in their powers of administration as well as legislation, dominate the governor, i.e., the proprietor."<sup>59</sup> These facts seem to show that for the tenure and development of land in a new country William Penn, like John Locke, turned naturally to feudal models.

Penn's chief purpose in the founding of Pennsylvania was the creation of a haven for the oppressed members of his sect, most of them from the humbler classes of society. He, therefore, favored the immigration of persons without much capital. Though he granted large estates, he sought to avoid the formation of great contiguous holdings like the patroonships of New Netherland. He provided in the Concessions of July, 1681, that purchasers were to have no more than one thousand acres in one area unless "in three years they plant a family upon every thousand acres."<sup>60</sup> At the outset he divided his prospective settlers into three classes: those who could buy, those who would rent, and servants.<sup>61</sup> For the first group each share was to contain five thousand acres, "free from any Indian incumbrance, price one hundred pounds, and one shilling English quitrent for one hundred acres, quitrent not to begin till after 1684." The renters were to pay one penny an acre, "not to exceed two hundred acres." When servants completed their time, each was to receive fifty acres, and the person who brought servants into the province was to be given fifty acres for each one so transported. Penn told Harrison in the summer of 1681 that he was willing to decrease the charge for servants who had worked out their time to one-half penny an acre, "to encourage poor servants to go and be laborious."<sup>62</sup> In spite of his desire thus to induce the humbler sort of men to immigrate into his province, Penn's terms were in general no easier than those offered at the

<sup>59</sup> Shepherd, *History of Proprietary Government in Pennsylvania*, p. 237, note 1.

<sup>60</sup> *Col. Rec.*, I, 26-27. Shepherd's article, cited in the preceding note, has a concise description of the system of granting the land of Pennsylvania which was adopted by the Founder and his sons. *Amer. Hist. Assoc., Annual Rept.*, 1895, pp. 117-118.

<sup>61</sup> Hazard, *Annals of Pennsylvania*, p. 510.

<sup>62</sup> *Ibid.*, p. 523.

time by the proprietors of the Carolinas or by the Baltimores in Maryland.<sup>63</sup> The studies of Shepherd, of Osgood, and of Bond, carried on with such differing objectives, all indicate that Penn's system of granting lands was confused and ineffective.<sup>64</sup>

Though feudalism and democratic ideas of land tenure are in most respects antithetical, Penn, the feudal lord, had some quite democratic theories about the holding and inheritance of land. It has been noted that he laid restrictions upon the formation of holdings of more than one thousand acres in a single block and that he made the conditions for securing land quite easy for servants who had completed their time. In the Concessions for West Jersey, Chapter XXIX provided that the commissioners were to have authority to see that the will of deceased persons "be duly performed." These officials were to award to the widow of any man dying intestate one-third of his property and to his children two-thirds. If there were no children, the estate was not to be forfeited under the feudal rule of escheat but was to be divided equally between the next of kin and the widow.<sup>65</sup> Under some circumstances the land in Pennsylvania did escheat to the proprietor. Article LIV of the Great Law provided that "the estates of intestates shall go to the wife and to the children, and if no wife be living at the time of death, all the estate shall go to the children, and if no children, one-third to the governor, and two-thirds to the next of kin."<sup>66</sup> The Charter of Privileges of 1701, which Penn granted somewhat reluctantly and which he later threatened to repudiate, provided that cases involving landed property were to be settled not by the governor and the council, but by the courts of justice. By the eighth section of the same charter the forfeiture of the estates of suicides and intestates was prohibited.<sup>67</sup> Penn evidently had approved at least of the second

<sup>63</sup> Osgood, *op. cit.*, pp. 34-35.

<sup>64</sup> Shepherd, *History of Proprietary Government in Pennsylvania*, pp. 26-27; Osgood, *op. cit.*, p. 46, Bond, *op. cit.*, pp. 133 ff. Shepherd discusses the whole land system in Pennsylvania in the first part of his study, especially in chaps. i, ii, and iii.

<sup>65</sup> Whitehead, *Documents*, I, 261.

<sup>66</sup> Hazard, *Annals of Pennsylvania*, pp. 630-631.

<sup>67</sup> See Article VI and Article VIII of the Charter of Privileges, Oct. 28, 1701. *The Acts of Assembly of Pennsylvania*, pp. x-xii; *Votes and Proceedings of the House of Representatives of Pennsylvania*, Vol. I, Part II, pp. i-iii.

of these provisions, for in the West Jersey Concessions of 1677 a similar principle appears.<sup>68</sup> He was willing on occasion to forego his claims upon certain lands. Such was the case with the property of the deceased Benjamin Acrod, who long before the drafting of the Charter of 1701 "killed himself with drink, which might give the province a pretence to his estate therein." In this instance Penn relinquished all his claims, "and desired the council to take care that some person be appointed to take care of the estate of the said Acrod for the payment of his debts, and the remainder to be disposed of according to law, etc." <sup>69</sup> The council passed an act on April 2, 1684, "for having intestates' estates divided equally, provided the eldest son shall have half of the real and personal estate, and the rest to be divided equally amongst the rest of the children." <sup>70</sup> Penn's early draft of the First Frame for Pennsylvania contained a provision abolishing the principle of primogeniture, but the document as finally promulgated retained that ancient privilege of the first-born. If, as Shepherd thinks, the original proposals of Penn, approved so highly by Benjamin Furlly and perhaps by Algernon Sidney, were modified to please the large landholders, this alteration would be quite understandable.

One who believed as strongly as did Penn in the rights of ownership and property would naturally wish to conserve and defend such possessions against infringement and waste. Penn's attitude toward squatters who held lightly their obligation to pay quitrents has been discussed. His position was similar with respect to other depredations upon property. He provided in the Conditions and Concessions of 1681 for the conservation of forests,<sup>71</sup> and five years later drafted a proclamation about the "cutting of timber and clearing of lots." He declared in this proclamation that while he had been in Pennsylvania, for the sake of justice he had taken great care "to prevent people's cutting wood and especially timber off from other men's lots; and foreseeing the scarcity that would quickly follow, I did appoint a woodsman who was instructed to grant such trees as belonged not to any private person and in such

<sup>68</sup> Whitehead, *Documents*, chaps. xxix and xxx, pp. 261-262; Samuel Smith, *The History of New Jersey*, pp. 534-535.

<sup>69</sup> *Col. Rec.*, I, 94 (entry for Feb. 20, 1683).

<sup>70</sup> *Ibid.*, p. 103.

<sup>71</sup> Hazard, *Annals of Pennsylvania*, p. 519.

number as the case deserved. . . ." <sup>72</sup> Penn thought that the irregular destruction of timber brought several evils upon the public. One was that the growth of underbrush was thereby promoted, which interfered with the town stock and likewise became a "nuisance by being a covert for vermin and too often for loose and evil persons. . . ." Destroyers of timber were to be prosecuted. Penn recommended to the Lords Justices of Ireland in 1698 that some action be taken to prevent the destruction of young trees by the Irish, who were tempted "to cut by night English improvements out of groves and hedgerows," thus seriously checking the growth of timber in Ireland.<sup>73</sup> He urged the enactment of a law making it a penal offense "for such as have coppices in this kingdom [Ireland] not to fence them from the browsings of cattle to be nurseries of wood and timber." He deprecated the "abhorrible" practice of both English and Irish tenants of "burning of land which is arable," though it might be permissible to burn over rough or mountainous [stony?] land "and where furses are coarse and short and the land overrun, so it be not limestone ground, provided the occupant lays it down after the third crop or fourth at farthest with good dung or soil. It may not do amiss." Reckless burning-over of lands "nurses an idleness (besides the injustices to landlords) like the Irish, for they only burn the land to save themselves the trouble of English husbandry and to get good crops at the landlord's ruin." Perhaps Penn's views of the Irish peasantry were the result of his early administration of his father's Irish estates; but possibly they sprang from his later experiences with that unhappy people.<sup>74</sup>

Penn was particularly solicitous that his own property be preserved from damage and spoliation. He complained to Logan, while he was still in the province, that he was "much a loser by such fellows and practices" as the drivers of stray horses and the illegal seizure of stray cattle, which under feudal law belonged to

<sup>72</sup> Proclamations and Advertisements, Box 9. A true copy of this original is in the American Philosophical Society MSS, Penn Letters and Ancient Documents, III, 12.

<sup>73</sup> Penn to the Lords Justices of Ireland, July 1, 1698, Penn-Forbes Collection, I, 52.

<sup>74</sup> For Penn's management of his father's Irish lands, see Hull, *William Penn: A Topical Biography*, pp. 88-105, especially p. 102.



the lord. "It is too much a practice," he wrote, "to think it no fault to cheat the governor. . . ." <sup>75</sup> He urged in 1702 that some action be taken before the commissioners to preserve his property, his "trees and cedar swamp, and black walnut, both of Schuylkill and Delaware, of which great havoc and spoil have been, and I fear is [*sic*] still but too much made." <sup>76</sup> In harmony with the proprietor's policy of conservation, the assembly presented an act for his approval in 1701 which provided for the killing of blackbirds and crows. <sup>77</sup>

Penn believed in the conservation of natural resources not only by legislative restrictions but also by positive action to improve roads, highways, waterways, and bridges. The *Colonial Records* contain instances of public buildings constructed either through the application of fines to that end or by the use of the labor of convicted criminals. <sup>78</sup> On September 25, 1689, Penn instructed Blackwell, his deputy, "that care be taken of the roads and highways in the country, that they may be straight and commodious for travellers, for I understand they are turned about by the planters, which is a mischief that must not be endured. . . ." <sup>79</sup> For October 22, 1701, there is an entry to the effect that since the bridge at Frankford was dangerous, the governor and council ordered that "the overseers of the high ways at Frankford and the township of Oxford equally contribute to what is needful towards the said repair, and that Thomas Parson (for good causes shown) be obliged to cut open the old water course, or pay the sum of forty shillings towards the same." <sup>80</sup> Penn showed in his letter to the Lords Justices of Ireland, referred to above, that he knew the use of fertilizers and that he was disposed to pass that knowledge on for the benefit of society.

With reference to laborers and servants Penn's attitude was that of the typical conservative gentleman. He incorporated his theories about servants in fourteen maxims in *Fruits of Solitude*. <sup>81</sup> Written

<sup>75</sup> Penn to Logan, Sept. 5, 1700, *Penn and Logan Correspondence*, I, 15.

<sup>76</sup> Same to same, Feb. 20, 1702/3, *Penn and Logan Correspondence*, I, 164.

<sup>77</sup> *Col. Rec.*, II, 46 (entry for Oct. 9, 1701).

<sup>78</sup> For example, *Col. Rec.*, I, 88 (entry for Oct. 26, 1683)

<sup>79</sup> *Pennsylvania Archives*, 4th series: *Papers of the Governors*, I, 107.

<sup>80</sup> *Col. Rec.*, II, 53.

<sup>81</sup> *Fruits of Solitude*, pp. 48, 116-117. These maxims are included in two sections under the titles of "Servant" and "Of a Good Servant." See also those under "Fidelity," p. 47.

in a style somewhat reminiscent of Biblical passages, these remarks have to do not with the rights of servants but with their duties. The virtues stressed for the servant are those qualities which make him useful to his master. "A true, and a good, servant," Penn wrote, "are the same thing"; and "no servant is true to his master that defrauds him." Defrauding the master consisted, moreover, not alone in cheating him of money, but also "of time, care, pains, respect, and reputation." A good servant would be as industrious in the absence of his master as in his presence; he would not neglect his master's work; he would not cheat his master by buying "dear to share in the profit with the seller." A good servant would be discreet and respectful, "more tender of his master's honor and interest than of his own profit." For such virtues the deserving servant, "if modest under his merit, should liberally feel it at his master's hand." Moreover, since in serving his master well, a servant is also pleasing God, he may expect "double wages for his work, to wit, here and hereafter." Such a reward may seem too intangible and uncertain to satisfy the modern laborer, but Penn was neither the first nor the last to minimize the material hire of which the laborer is said to be worthy in favor of more ethereal blessings. His point of view was that of the employing classes. He said nothing directly, and did not even intimate very much, about the obligations which the master may owe the servant. He insisted, in this matter as in others, upon the doctrine that every man has rights of which he may not be deprived without his own consent. Excepting this generalization and the few trite remarks just cited, he left no writings evincing serious attention to the theoretical relationships of the employing and the laboring classes.

As governor of Pennsylvania, however, he had to meet some concrete problems in the field of labor economics. He needed settlers of all economic levels, but in opening his province to settlement he particularly desired laborers. In the summer after he received his charter he outlined the policy described above with regard to the importation of servants and the allotment both to them and to the importers of tracts of land. Special arrangements were made "for their sakes that cannot buy."<sup>82</sup> Penn tried to procure the immigration of trained artisans to aid in the development of indus-

<sup>82</sup> Penn to Harrison, Sept. 4, 1681, Hazard, *Annals of Pennsylvania*, p. 523.

try, and he encouraged the importation of specialists in agriculture.<sup>83</sup> In the Laws Agreed upon in England appear two provisions dealing with servants. The twenty-third article establishes a "register for all servants, where their names, time, wages, and days of payment shall be registered." The twenty-ninth article provides that "servants be not kept longer than their time, and such as are careful be both justly and kindly used in their service, and put in fitting equipage at the expiration thereof, according to custom."<sup>84</sup> This provision was enacted into the Great Law in the same words.<sup>85</sup> Among the acts passed by the assembly at New Castle in the autumn of 1700, Chapter XLIX afforded further legal protection to servants. It provided that "no servant, bound to serve his or her time in this province, or counties annexed, shall be sold or disposed of to any person residing in any other province or government, without the consent of the said servant and two justices of the peace of the county wherein he lives or is sold. . . ." <sup>86</sup> Violation of this statute was punishable by a fine of ten pounds, and a like penalty was imposed for the transfer of the servant except "in the presence of one justice of the peace of the county." The act also provided that every person discharged from faithful service at the end of four years or more was to "be duly clothed with two complete suits of apparel, whereof one shall be new, and shall also be furnished with one new ax, one grubbing-hoe, and one weeding-hoe, at the charge of their master or mistress." Thus the authorities in the province sought to protect labor from exploitation. That Penn initiated such legislation cannot be shown, but he did approve the measures as passed by the assembly.

The Great Law contained other provisions regulating the relations between masters and servants. Though Article XXVI defined the punishment of assault and battery "according to the nature and circumstances of the fact," a special provision was made for the assault upon a master by a servant. For servants who were mistreated the law provided inadequate recourse. "If any master

<sup>83</sup> Penn to Thomas Lloyd, Oct. 2, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 15 Penn here asks courteous treatment for the bearer of the letter, one Charles Delanoe, a French minister, who had "a genius to a vineyard and a garden."

<sup>84</sup> Hazard, *Annals of Pennsylvania*, p. 572.

<sup>85</sup> *Ibid*, p. 631.

<sup>86</sup> *The Acts of Assembly of Pennsylvania*, p. 7

abuse his servant, on complaint to the next justice of the peace, he shall take care to redress the said grievance." For servants who ran away before their time had expired, the punishment was that "when caught [they] shall serve twice the time he or she was absent, and pay the charges, or serve out the value after their time is expired."<sup>87</sup> To Penn, servants were property. As has been noted earlier, when the Anglicans in Philadelphia objected on the ground of religious principle to the Quaker's effort to check the clandestine marriage of men and women in service, William Penn, the great defender of liberty of conscience, expressed himself thus: "I think it an ill consequence to plead conscience against the security of property, and such are servants. . . ." <sup>88</sup>

These and similar enactments, however, could not solve the difficult problems arising from the presence in the colony of the numerous indentured persons. Runaway servants were common enough to require additional action by the proprietor and the council. In such cases Penn again showed himself to be the upholder of the rights of property. To him the contract or indenture was an agreement which could not be broken, and violation of such an instrument was not to be tolerated. It was found necessary, as early as April, 1683, to recommend to the council an enactment that "apprentices that run away from their masters without certificate should not be entertained."<sup>89</sup> Nearly five months later Penn proposed a proclamation "for to empower masters to chastise their servants and to punish any that shall inveyle [inveigle?] any servant to go from his master."<sup>90</sup> A few days thereafter he suggested a law "that servants which run away should serve five days for every day's absence after the time of their servitude and pay the costs and damages the master shall sustain by their absence."<sup>91</sup> Penn instructed Turner in March, 1684, to propose to the general assembly of West Jersey that if that colony would make the warrants of Pennsylvanian officers effective in West Jersey with respect to runaways, the legislature in Pennsylvania would do the same

<sup>87</sup> Hazard, *Annals of Pennsylvania*, pp. 625, 631.

<sup>88</sup> Penn to Nicholson, Dec. 31, 1700, Letter Book, 1699-1701, p. 83

<sup>89</sup> *Col. Rec.*, I, 72-73 (entry for April 3, 1683).

<sup>90</sup> *Ibid.*, p. 79 (entry for Aug. 29, 1683).

<sup>91</sup> *Ibid.*, p. 80 (entry for Sept. 8, 1683).

for the warrants of West Jersey.<sup>92</sup> This policy Penn endeavored to extend in the conference of governors at New York in the autumn of 1700.<sup>93</sup> At about the same time the legislature enacted into law the penalty for runaway servants which he had proposed seventeen years earlier.<sup>94</sup> By this same act rewards were set for the apprehension and return of such servants. No question seems to have been raised in any of these enactments as to the cause of the servant's absence. No penalties, beyond the general prohibition of assault and battery, were established for the cruel treatment of such persons, though, as has been pointed out, Penn proposed to authorize masters to punish servants. As it stood, the law denied to the hired man his most obvious and practical defense against injustice or exploitation—flight. On almost every score these acts favored the master and ignored almost completely the interests of the servant.

Other labor regulations illustrate the same paternalistic assumption of authority by the governing power of the province, the same care for the interests of the employer. The *Colonial Records* in 1684 contain, for instance, an entry reporting that one "John Jones acquaints the council that one Russell harbors his Negroes and therefore begs some redress."<sup>95</sup> Sixteen years later, in order to check "the clandestine employing of other men's servants," it was forbidden under pain of the law to "conceal any servant . . . or entertain him or her twenty-four hours, without his or her master's or owner's knowledge and consent." The act required any person giving such shelter to "give an account thereof to some justice of the peace of the county" within the same space of time. Penalties were imposed upon justices of the peace and sheriffs who neglected to enforce these requirements.<sup>96</sup> Traffic or dealing with servants without the master's permission was forbidden, and when detected, the guilty free person was to "forfeit treble the value" of the goods transferred to the master so losing.

<sup>92</sup> Penn to Turner, March 31, 1684, Penn Papers, J. Francis Fisher's Copies, p. 5.

<sup>93</sup> C.S.P. (1700), pp 598-599 (entry No 845, for Oct. 17, 1700); Penn to the Board of Trade, Dec. 8, 1700, Letter Book, 1699-1701, pp. 47-51.

<sup>94</sup> *The Acts of Assembly of Pennsylvania*, pp. 7-8.

<sup>95</sup> *Col. Rec.*, I, 117 (entry for July 25, 1684)

<sup>96</sup> *The Acts of Assembly of Pennsylvania*, p. 8.

If white, the servant guilty of such dealing was to serve out time after the expiration of his engagement "to double the value of the said goods." If black, "he or she shall be severely whipped in the most public place of the township where the offence was committed."<sup>97</sup> The difference in the treatment of white and of Negro offenders may be explicable on the ground that the whites were indentured servants with a definitely limited term of service while the blacks, being slaves, were in lifelong bondage. If the rulers of the Quaker colony, however, had been greatly concerned about racial equality, such a statute would have been difficult to understand.

In general, the responsibility of masters for their servants' conduct was recognized. On some occasions masters were assessed a bond of fifty pounds for the good behavior of their bondsmen.<sup>98</sup> The fact that a convicted criminal was a servant sometimes made a difference in the penalty imposed. When in the early days of his government Penn sat in judgment upon several counterfeiters, he pronounced sentence upon one Robert Fenton to the following effect: "The court, having also considered thy ingenuity in confessing the truth of matters and that thou art a servant, hath only sentenced thee to sit an hour in the stocks tomorrow morning."<sup>99</sup>

William Penn, writing in an entirely different connection, once stated in emphatic language that no one had the right "to inherit the sweat of the other's brow to reap the benefit of his labor but by consent."<sup>100</sup> This statement plainly was not applied in an economic sense to American labor.<sup>101</sup> Perhaps Penn's attitude was somewhat like Jefferson's, who, while he owned slaves, could declare his belief in essential human equality. The Founder expressed his displeasure in 1701 at the long delay in the trial of a Negro committed to prison for murder. Upon the advice of the attorney general, David Lloyd, orders were issued to try the accused under what appears technically to have been an *ex post*

<sup>97</sup> *Ibid.*

<sup>98</sup> *Col. Rec.*, I, 92 (entry for Jan 16, 1684).

<sup>99</sup> *Ibid.*, p. 88 (entry for Oct. 26, 1683).

<sup>100</sup> "England's Present Interest," *Works*, I, 688 This statement was made in the course of a plea for religious toleration in England, and the prefatory remark was, "No man in England is born slave to another."

<sup>101</sup> In 1684, for example, a bill was proposed in the council to give the justices in the county courts the power "to set the wages of workmen and servants with a penalty." *Col. Rec.*, I, 98 (entry for March 26, 1684).

*facto* law. Penn had inquired as to "what method would now be the most safe and effectual to take in it" and he had received from legally trained men the advice that "they [Negroes] might safely be tried by the law in that respect, but it might be safer to try them in another way."<sup>102</sup> So far as the Negro was concerned, Penn evidently did not believe that, as Oliver Ellsworth contended four score and six years later, "*ex post facto* laws were void of themselves"; nor could he consistently have accepted the view of Gouverneur Morris that to prohibit such laws was unnecessary, or the view of James Wilson that to insert into the Federal Constitution a prohibition of such laws would "proclaim that we are ignorant of the first principles of legislation, or are constituting a government that will be so."<sup>103</sup> The code of laws passed by the assembly at New Castle on November 27, 1700, during the Founder's second period of personal administration of his province, exhibited marked discrimination against Negroes. The sixty-first of the one hundred and four chapters comprising this code was entitled "an act for the trial of Negroes." It provided not only for more severe penalties for blacks convicted of certain offenses against the law than for whites convicted of the same crimes, but it also established a means of trying the Negroes quite different from the procedure laid down—evidently for white men—in the ninety-third chapter of the same code, entitled "the law about trials by twelve men." Instead of the grand jury provided by the latter, two justices of the peace "particularly commissioned by the proprietary and governor" and "six of the most substantial freeholders of the neighborhood" might lawfully "hear, examine, try and determine all such offences committed by any Negro or Negroes within this government. . . ." <sup>104</sup> William Penn did not believe in the equality of whites and blacks before the law.

During the greater part of his active life William Penn believed in—or at least, accepted without adverse criticism—the institution of Negro slavery. He owned Negro slaves. Writing in the summer of 1685 to Harrison, he said: "If the black that is the fisher be there still, let Jos. Cart [?] have him at a full price, for the man

<sup>102</sup> *Ibid.*, II, 18 (entry for April 25, 1701)

<sup>103</sup> Madison, *Journal of the Constitutional Convention*, p. 586.

<sup>104</sup> *Statutes at Large of Pennsylvania*, II, 77-78, 128-129

will expect it from me.”<sup>105</sup> Penn later wrote to the same correspondent concerning a gardener whom he was sending to America “to train up two, a man and boy, in the art.”<sup>106</sup> As for these apprentices, he said: “It were better they were blacks, for then a man has them while they live.” This argument, of course, is among the commonly employed economic justifications of Negro slavery. Penn wrote a few weeks later: “The blacks of Captain Allen I have as good as bought; so part not with them without my order.”<sup>107</sup> His Cash Book for the estate at Pennsbury shows that among his domestics was a Negro woman named Dorcas.<sup>108</sup> In his will of 1701 he wrote: “I give to my blacks their freedom, as is under my hand already”; but in his final will, dated May 27, 1712, no mention is made of Negro slaves.<sup>109</sup> Penn and the council in 1700 proposed to the assembly a law for the regulation of Negro marriages, but the lower house did not pass the measure. Janney says that Penn was concerned for the good of the Negroes’ souls.<sup>110</sup> Buck, like Janney, quotes the minutes of the Philadelphia Monthly Meeting to show that the Founder expressed the desire that opportunity for religious exercises be given them, and that the Meeting, thereupon, decided to “appoint a meeting for the Negroes, to be kept once a month.” Buck also mentions Penn’s interest in “the regulation of their trial and punishments.”<sup>111</sup> In *Fruits of Solitude*, which touched upon so many moral problems, no reference is made to Negro slavery.

While it may or may not be true that, as Cecil Headlam asserts, William Penn “owned slaves without a qualm,” there is no extant evidence—unless we so consider the will of 1701—that he felt any

<sup>105</sup> Penn to Harrison, July 11, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 13. The passage quoted appears in a postscript bearing the date Aug. 3, 1685.

<sup>106</sup> Same to same, Oct. 25, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 18.

<sup>107</sup> Same to same, Dec. 4, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 22. See also Penn’s earlier letter to Harrison, Nov. 27, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 21.

<sup>108</sup> This MS Cash Book is preserved in the library of the American Philosophical Society.

<sup>109</sup> Janney, *op. cit.*, p. 424. In the Granville Penn Book is a draft of a will in Penn’s hand, dated Aug. 21, 1707. No reference appears to slavery in it. His last will and testament was dated at Ruscomb in Berkshire on May 27, 1712. A contemporaneous copy of this document is preserved in the Penn Deed Box (Wooden) in the MSS Division of the library of the Historical Society of Pennsylvania.

<sup>110</sup> Clarkson, *op. cit.*, II, 224-226; Janney, *op. cit.*, p. 423.

<sup>111</sup> Buck, *William Penn in America*, p. 248.



aversion to the institution.<sup>112</sup> The will, of course, may not have sprung from hostility to the institution. On the other hand, there is considerable evidence that some members of his sect did abhor Negro slavery. George Fox is represented as disapproving of it and as urging the Barbadian slaveholders with whom he came into contact to "cause their overseers to deal mildly and gently with their Negroes, and not use cruelty towards them, as the manner of some hath been and is; and that after certain years of servitude they would make them free" <sup>113</sup> Penn left no comment, if he ever made any, upon the famous Germantown protest in 1688; and if he had any views as to the action of the Yearly Meeting in Philadelphia in 1696 on the subject of the Negroes, there is no extant record of them.<sup>114</sup>

The same conflicting and sometimes mutually contradictory forces that combined to influence Penn's political thinking entered into the formation of his economic philosophy. He was an aristocrat in intellect, in academic education, and in early associations; more important perhaps for his economic views, he was a landholder, the possessor of a patrimony in Ireland which was sufficient to support him during his entire mature life and the proprietor of a great, though not profitable, feudal domain in America. These facts explain the basic conservatism more pronounced in his economic thinking than in either his political or his social philosophy. But, like Saul of Tarsus, Penn had had a

<sup>112</sup> Headlam, "The Development of the Colonies under the First Georges, 1714-1755," chap. xiii, *The Cambridge History of the British Empire*, I, 401. Pound, *op. cit.*, p. 239, wrote "While not in favor of emancipation, Penn wished to put negro slavery on a more humane basis." That Penn ever said that he did not favor emancipation is not known to the present writer. See also Channing, *op. cit.*, II, 382, note 1; and Buck, *op. cit.*, pp. 398-401.

<sup>113</sup> Fox, *The Journal of George Fox*, p. 277. The quotation in the text is taken from chap. xxi, "The American Journey," 1671-1673. Note 1 of page 271 reads as follows: "This account of the American journey is a composite narrative and not the authorship of Fox though cast into the first person."

<sup>114</sup> In the constitution of the Free Society of Traders it was provided that "Negroes were to be free after fourteen years, they were then to receive land, stock and tools and to pay two thirds of their crop to the Company" Graham, *op. cit.*, p. 136; Hazard, *Annals of Pennsylvania*, p. 553. Proud and Sharpless discuss the Quaker attitude with respect to slavery. Compare Proud, *The History of Pennsylvania in North America*, I, 52; and Sharpless, *A Quaker Experiment*, Part II, pp. 226-227. Turner, *The Negro in Pennsylvania*, pp. 2-3, 18-19, 21, 26-27, 43-44, 45-46, and 54, takes account sketchily of William Penn's relationships and attitudes with reference to the Negro.

vision, and his economic ideas, like his political and social theories, were deeply influenced by the "inner light." His economic philosophy consequently differed from that of the usual landed proprietor in that it lacked great emphasis on the exploitive element. It differed from the democratic liberalism of the eighteenth century, for its essential characteristic was not individualism but paternalism. Penn's philosophy was that of the landed proprietor attempting through paternalism to achieve a form of economic democracy. His ideal was a commonwealth of happy and contented people. He wished for substantial equality of economic opportunity, but he insisted strongly upon property rights. He stood for individual freedom; yet he provided for governmental intervention in economic affairs. Like Thomas Jefferson, he believed that agriculture was the noblest profession. Fundamentally, his ideal society was agrarian, based on the ownership of landed property. Like James Harrington, William Penn might perhaps have written:

Wherefore the fundamental laws of Oceana, or the center of this commonwealth are the agrarian and the ballot. The . . . agrarian by the balance of dominion preserving equality in the root, and the ballot by an equal rotation conveying it into the branch, or exercise of sovereign power.<sup>115</sup>

<sup>115</sup> Harrington, *The Commonwealth of Oceana*, p. 85.

## Chapter VIII

### DEFENDER OF PROPERTY AND WEALTH

*But those rights and privileges which I call English and which are the proper birth-right of Englishmen. an ownership and undisturbed possession. that what they have is rightly theirs and nobody's else*

*What civil right hath any man in government besides property, at least without it?*

*The next and most common part of covetousness is the unlawful desire of lawful things, especially of riches. . .*

—WILLIAM PENN

A DOMAIN vast as that granted to William Penn would, almost of necessity, have given its lord the conservative respect for property characteristic of the landed classes. In Penn, however, that attitude was probably born before he became the proprietor of American soil. His family associations, his training in the management of his father's Irish estates, his familiar relations with the Stuart court—perhaps even his inherited attitude—tended to produce a lively respect for property and wealth. Throughout his career, especially when he was insisting upon fundamental rights, he placed property among the inviolable appurtenances of English nationality.

Penn did not always use the term "property" in the same sense. On one occasion he defined it as an element or part of "ownership," which he described as one of "the three fundamentals comprehended and expressed to have been the rights and privileges of Englishmen." He declared that ownership consisted "of liberty and property. In that it supposes Englishmen to be free, there's liberty; next, that they have freeholds, there's property."<sup>1</sup> According to this definition the term would mean real property. More frequently Penn used the word in a wider sense. In an early, but undated, writing he defined it as "right of ownership, legislation, and judgment by peers, according as is repeated in the four-

<sup>1</sup> "England's Present Interest," *Works*, I, 682. Osgood calls attention to this passage in *The American Colonies in the Seventeenth Century*, II, 253, note 1.

teenth and twenty-ninth chapters of the Great Charter, the Petition of Right, and above thirty other laws." <sup>2</sup> He wrote later that property meant "right and title to your own lives, liberties and estates." <sup>3</sup> He stated on another occasion that among "those rights and privileges which I call English, and which are the proper birth-right of Englishmen" was that of "an ownership and undisturbed possession: that what they have is rightly theirs and nobody's else." <sup>4</sup> In a letter to one whom he addressed as Jasper, Penn asked his correspondent: "What civil right hath any man in government besides property, at least without it?" <sup>5</sup> He found it useful, in opposing the threatened vacation of his Charter in 1700, to deny the pretended distinction "between powers and property." He asserted that the right to govern the colony could not be taken away from him without violating a property right. "The power," he maintained, "is as much our property as the soil. It is given to us and our posterity and without it the soil is but as the ring without the stone, that worth twenty shillings, this worth one hundred pounds. A country without power is ridiculous; one follows t'other. . . ." <sup>6</sup> As Penn used the term, therefore, "property" generally included not only real and personal property, but much more. The discussion in the present chapter will, however, deal rather with Penn's ideas concerning material possessions than with his philosophy relating to more intangible items, such as man's right to participate in government or to worship as his conscience directs.

It has been shown earlier in this study that the sacred nature of property was one of Penn's reasons for opposing the penal laws on the subject of religion. He argued for the establishment of a "general religion" in England on the ground that such a course would encourage industriousness: the worker would be more "cheerful at his labor when he is assured to keep what he works for, and that the sweat of his brows shall not be made a forfeit for his conscience." <sup>7</sup> One of the arguments for peace in the famous

<sup>2</sup> Letter Book, 1667-1675, pp. 123-125.

<sup>3</sup> "England's Great Interest," *Works*, II, 679

<sup>4</sup> "England's Present Interest," *Works*, I, 675.

<sup>5</sup> Penn to Jasper [Yeates?], Feb 5, 1682/3, Society Miscellaneous Collection

<sup>6</sup> Penn to Lawton, Dec. 21, 1700, Letter Book, 1699-1701, p. 79.

<sup>7</sup> "England's Present Interest," *Works*, I, 703.

*Essay towards the Present and Future Peace of Europe* was the safety and security of property:

Peace preserves our possessions. we are in no danger of invasions, our trade is free and safe, and we rise and lie down without anxiety. The rich bring out their hoards and employ the poor manufacturers; buildings and divers projections for profit and pleasure go on; it excites industry, which brings wealth...<sup>8</sup>

Penn was zealous in his attempts to preserve the rights of property against the seizures authorized under the English penal laws, and he was no less so in his efforts to safeguard the propertied classes in Pennsylvania. He wrote to Blackwell in 1689 "to countenance the commissioners of propriety where land is unseated or people are unruly in their settlements or comply not with reasonable obligations about bounds, banks, timber, etc. . . ." <sup>9</sup> He defended his rights against the threatened vacation of his Charter in 1701 with the statement that to all Englishmen "property is sacred." He contended that not only his governmental powers, but the liberties of the settlers and "the first inducements" for colonizing were "struck at by that bill [the bill for abolishing the Charter]." <sup>10</sup> He repeatedly urged Logan to uphold the interests of the proprietor against delinquent renters or squatters.<sup>11</sup> Expressing satisfaction in 1711 at the recent turn of politics in his colony, he hoped that "there will not now need any more to be said . . . concerning the invasion of my poor property, to which I cannot but say I am sorry so many have shewn so slender a regard in detaining so much of my wanted quitrents." <sup>12</sup>

The Charter of 1681 conferred upon Penn the right to legislate for his province "by and with the advice, assent, and approbation of the freemen of the said country." <sup>13</sup> Who these freemen were to be is not specifically indicated in the Charter, but that they were

<sup>8</sup> *Peace of Europe*, p. 4

<sup>9</sup> Penn, "Instructions for Lieftenant Governor Blackwell," Nov. 25, 1689, Penn-Forbes Collection, I, 10.

<sup>10</sup> Penn to the Board of Trade, Aug 26, 1701, B.T.P., Vol. VI, Part I, G 39.

<sup>11</sup> Penn to Logan, June 6, 1703, and June 10, 1707, *Penn and Logan Correspondence*, I, 188, and II, 229. Under date of Feb. 20, 1703, Penn lamented to Logan the invasion of certain of his lands and the havoc wrought upon his "trees and cedar swamp and black walnut." *Ibid.*, I, 164.

<sup>12</sup> Penn to Friends in Pennsylvania, Feb. 10, 1711, Penn MSS, I, Private Correspondence, 1654-1735, p. 37.

<sup>13</sup> Hazard, *Annals of Pennsylvania*, pp. 490 ff.

to be owners of property may be inferred from the sixth article of the document. As pointed out earlier in the study, this provision indicates that the "freeholders of the said province, or their delegates or deputies" were to "be assembled to the making of laws." There may or may not have been official pressure brought to bear upon Penn to limit the suffrage to the propertied classes. Even in the liberal draft of the First Frame, printed as "The Fundamentall Constitutions of Pennsilvania," the suffrage was to be in the hands of freeholders.<sup>14</sup> It need not be concluded that pressure was necessary to induce the Founder to restrict the right to vote. Any other course would have marked him as a man very far in advance of his age. In the final draft of the First Frame nothing is said about the qualifications of the voters except the provision that "the freemen" of the province should elect members of the council and of the assembly.<sup>15</sup> No definition of "freemen" appears in the document, and it might fairly be inferred that the term described the same persons to whom it was intended to apply in the royal Charter. The Laws Agreed upon in England and the Great Law defined "freemen" to mean property owners or taxpayers.<sup>16</sup> If democracy can exist in a feudal regime, suffrage based on land tenure would probably be basic for such a system. The qualifications for voters in Pennsylvania were not high, for land in this frontier country was cheap.<sup>17</sup> Yet there were landless men, and Penn's resentment of their attempts to interfere in the government may be read in his contemptuous reference to certain "violent tempers, the chief of which have neither house nor land in the province [of Pennsylvania], and eat the bread they get in it by the indulgence of those they would injure and destroy. . . ." <sup>18</sup>

When Penn wrote as a Quaker, he took the Biblical view of that sect in his attitude toward the propertied man and his obligations. He disapproved emphatically of covetousness. He wrote of it in his most important doctrinal writing:

<sup>14</sup> See Shepherd, *History of Proprietary Government in Pennsylvania*, p. 237, note 1; Konkle, David Lloyd and the First Half Century of Pennsylvania History, MS, pp. 25-39. Compare *The Pennsylvania Magazine of History and Biography*, XX (1896), 287-288.

<sup>15</sup> Hazard, *Annals of Pennsylvania*, pp. 562, 565.

<sup>16</sup> *Ibid.*, pp. 569, 632.

<sup>17</sup> Osgood, *op. cit.*, pp. 22-23; Jernegan, *The American Colonies*, pp. 220-221.

<sup>18</sup> Penn to Somers, Oct. 22, 1700, Letter Book, 1699-1701, p. 70.

The next and most common part of covetousness is the unlawful desire of lawful things, especially of riches. Money is lawful, but 'the love of it is the root of all evil,' if the man of God say true. So riches are lawful; but they that pursue them 'fall into divers temptations, snares and lusts,' if the same good man say right.<sup>19</sup>

Covetousness, thought the young moralist, tends to corruption and therefore is "an enemy to government in magistrates." It "leads men to abuse and defraud" the government, "by concealing or falsifying the goods they deal in. . . ." <sup>20</sup> Penn warned his wife and children against the acquisition of wealth as an end in itself: "Let your industry and parsimony go no farther than for a sufficiency for life, and to make a provision for your children (and that in moderation, if the Lord gives you any)." He advised them to "love not money, nor the world. Use them only, and they will serve you; but if you love them, you will serve them." <sup>21</sup> Like a modern Isaiah, he inveighed in the *Summons or Call to Christendom* against judges "who pervert judgment for a reward," lawyers "that refuse no cause for money," merchants and traders "that have not the Lord's fear" before their eyes, "whose God is gold and gain." <sup>22</sup> He pointed out, in language not unlike that of the modern social planner, that covetousness injures society, "for old traders keep the young ones poor." In *No Cross, No Crown* he pronounced it "a reproach to a man, especially the religious man, that he knows not when he hath enough; when to leave off; when to be satisfied . . . as if the more he hath, the more he may. . . ." Covetousness, in fact, caused the inequitable distribution of this world's goods: "The great reason why some have too little, and so are forced to drudge like slaves to feed their families and keep their chin above water, is because the rich hold fast and press to be richer and covet more, which dries up the little streams of profit from [for?] smaller folks."

To check this tendency toward the concentration of wealth in

<sup>19</sup> "No Cross, No Crown," *Works*, I, 340.

<sup>20</sup> Harrington, *The Commonwealth of Oceana*, p. 65, also decried extreme wealth as a disturbing element in politics. "There is a mean in things, as exorbitant riches overthrow the balance of a commonwealth, so extreme poverty cannot hold it, nor is by any means to be trusted with it."

<sup>21</sup> Penn to his wife and children, Aug. 4, 1682, quoted in Janney, *The Life of William Penn*, pp. 187-193.

<sup>22</sup> *Peace of Europe*, pp. 159-160.

fewer and fewer hands, Penn proposed "a standard, both as to the value and time of traffic; and then the trade of the master to be shared among his servants that deserve it." Such a standard, he argued, would serve "both to help the young to get their livelihood and to give the old time to think of leaving this world well, in which they have been so busy, that they might obtain a share in the other, of which they have been so careless."<sup>23</sup> Thus Penn combined morals and economics in the same breath. Several years later, though while he was still young, he suggested what some groups seem even at the present time to think a more effective (or perhaps more desirable) method of helping the underprivileged than standards "as to the value and time of traffic." He wrote an "Epistle to the Churches" in his *Journal* of the visit to Holland and Germany, in which he advised the poor to "murmur not; but be patient and trust in the Lord and submit to His providence, and He will provide for you that which is convenient for the days of your appointed time."<sup>24</sup>

In *Fruits of Solitude* Penn urged the obligation of wealthy men to use their means for the good of others: "It is a dangerous perversion of the end of Providence to consume the time, dower, and wealth He has given us above other men to gratify our sordid passions instead of playing the good stewards, to the honor of our great benefactor and the good of our fellow-creatures."<sup>25</sup> Penn's "standard" for the regulation of traffic, suggested in his early essay, may have meant some authoritarian interference with the currents of trade to remedy the inequitable distribution of wealth. His later writings, however, show plainly that with increasing age he espoused the more comfortable theory: that charity, private and public, was the means ordained by Deity to deal with this difficult problem.

Penn, respecter of the rights of property, was much interested in the enforcement of contractual relations and in the protection of the creditor. His own title to Pennsylvania, according to his statement, rested upon the payment of a debt, and depended for its continued validity upon the inviolability of a contract. The

<sup>23</sup> "No Cross, No Crown," *Works*, I, 341-342.

<sup>24</sup> *Journal of His Travels in Holland and Germany in 1677*, p. 44.

<sup>25</sup> *Fruits of Solitude*, p. 124.



final provision of the Conditions and Concessions of 1681 protected creditors by prohibiting persons from leaving the province "without publication being made thereof, in the market-place, three weeks before, and a certificate from some justice of the peace of his clearness with his neighbors and those he has dealt withal. . . ." The same article provided that a shipmaster transporting a person from the colony in violation of this law would himself "be liable to all debts owing by the said person so secretly transported from the province."<sup>26</sup> The Laws Agreed upon in England provided that factors or correspondents in Pennsylvania who injured their employers "shall make satisfaction and one-third over, to the said employers; and in case of the death of any such factor or correspondent, the committee of trade shall take care to secure so much of the deceased party's estate as belongs to his said respective employers."<sup>27</sup> The Great Law of December, 1682, provided that "all bargains, promises, and agreements about buying and selling, being made to appear by sufficient evidence, shall stand good and firm." He who violated the sanctity of such a contract should, "for every such offence, pay twice the value to the party wronged." A later article in this code provided that "all lands and goods shall be liable to pay debts, except where there be legal issue, and then all goods, and one-half of the land only, in case the land was bought before the debts were contracted."<sup>28</sup> The acts of the assembly at New Castle, adopted November 27, 1700, devoted a chapter to "taking lands in execution for the payment of debts, where the sheriff cannot come at other effects to satisfy the same." This provision authorized the sale of lands and houses belonging to delinquent debtors, "where no sufficient personal estate is to be found," after the said property "shall be duly appraised by twelve honest and discreet men of the neighborhood."<sup>29</sup> It has been pointed out earlier that, according to Lord Bellomont's report, the conference of governors at New York in 1700 suggested a uniform law for all of the continental colonies to

<sup>26</sup> Hazard, *Annals of Pennsylvania*, p. 520.

<sup>27</sup> *Ibid.*, p. 573.

<sup>28</sup> *Ibid.*, pp. 630, 631.

<sup>29</sup> *The Acts of Assembly of Pennsylvania*, pp. 6-7. The purpose of this chapter of the law was declared to be "that no creditors may be defrauded of the just debts due to them by persons of this province or territories who have sufficient real estate, if not personal, to satisfy the same."

deal with dishonest debtors. Subsequent enactments were necessary, after Penn's last return to England, for the protection of creditors. Whether Penn originated any or all of these measures cannot be stated nor the precise part he played in their enactment be determined; but he evidently approved of them. He had had personal reason enough to wish for the enforcement of the payment of debts. Aside from his disappointments in the collection of quitrents, he had the easy-going creditor's usual experience with defaulting debtors.<sup>30</sup>

Though he plainly wished to protect creditors, his ideas concerning the treatment of debtors were unusually liberal for the day. He opposed the imprisonment of small debtors and considered their incarceration usually motivated by the creditor's desire for "unprofitable revenge." He wrote this sentiment into an early draft of the First Frame and followed it by the provision that "no man shall be imprisoned for any debt that is not above the sum of ten pounds. . . ." <sup>31</sup> The Great Law provided "for avoiding of numerous suits" in the relations between debtors and creditors.<sup>32</sup>

Luxury was a vice in Penn's code. Biographers agree that he was not averse to good living himself,<sup>33</sup> but on occasion, like a good Quaker, he denounced luxury as a "great impiety." He wrote in *No Cross, No Crown* that it is "a disease as epidemical, as killing: it creeps into all stations and ranks of men, the poorest often exceeding their ability to indulge their appetite and the rich frequently wallowing in those things that please the lusts of their eye and flesh and the pride of life. . . ." <sup>34</sup> To remedy the evils resulting from luxury Penn anticipated some of the purposes avowed by the modern New Dealers. He advocated in *Fruits of Solitude* the principle of taxation for social control, and, if not quite as a

<sup>30</sup> Penn to Logan, undated but supposed to have been written in 1700, *Penn and Logan Correspondence*, I, 12-13.

<sup>31</sup> *The Pennsylvania Magazine of History and Biography*, XX (1896), 294 Penn's own experience in a debtor's prison did not come, of course, until more than a quarter of a century after these sentiments had been put into writing.

<sup>32</sup> Hazard, *Annals of Pennsylvania*, p 629

<sup>33</sup> For example, Janney, *op. cit.*, pp. 414-417; Stoughton, *William Penn*, pp 300-304; Fisher, *The True William Penn*, pp. 230, 330; Dixon, *William Penn* (1902), pp. 274-278; Pound, *The Penns of Pennsylvania and England*, pp. 234-239; Hull, *William Penn: A Topical Biography*, pp. 314-315

<sup>34</sup> *Works*, I, 347.

means of effecting the redistribution of wealth, at least as an amelioration of the conditions produced by excessive riches. In the section dealing with "Frugality or Bounty" he wrote: "Were the superfluities of a nation valued and made a perpetual tax or benevolence, there would be more almshouses than poor; schools than scholars; and enough to spare for government besides."<sup>35</sup> Perhaps the Quaker rather than the economist was speaking when he wrote: "If the taxes we give are not to maintain pride, I am sure there would be less if pride were made a tax to the government." In another place he wrote: "If all men were so far tenants to the public that the superfluities of gain and expense were applied to the exigencies thereof, it would put an end to taxes, leave never a beggar, and make the greatest bank for national trade in Europe." He expressed approval in the same book of sumptuary laws to limit pride: "our noble English patriarchs as well as patriots were so sensible of this evil that they made several excellent laws, commonly called sumptuary, to forbid, at least limit the pride of the people; which because the execution of them would be our interest and honor, their neglect must be our just reproach and loss." He urged "that the punishment of pride and excess should help to support the government, since it must otherwise inevitably be ruined by them." Summarizing his section "Of the Interest of the Public in Our Estates," he wrote: "In short, let pride pay and excess be well excised, and if that will not cure the people it will help to keep the kingdom."<sup>36</sup>

No evidence has been found that Penn favored such a scheme of redistribution of wealth as the excess-profits tax. His language indicates that he thought luxury an offense rather against the divine than against the civil law; it was a sin rather than a crime or merely the result of artificially inequitable legal conditions. Probably, like other colonial legislators of his day and earlier, he had in mind sumptuary regulations in the nature of an excise tax.<sup>37</sup> It must be remembered, too, that he repeatedly insisted on the right of Englishmen to be taxed only by their own consent. Such regulation as was to be exercised would, under these con-

<sup>35</sup> *Fruits of Solitude*, p. 28.

<sup>36</sup> *Ibid.*, pp. 86-87.

<sup>37</sup> See Johnson, *American Economic Thought in the Seventeenth Century*, p. 254; also Jernegan, *op. cit.*, pp. 179-180.

ditions, be an expression of preponderant public opinion rather than the act of a proprietary censor.

During Penn's first sojourn in America the proposal to tax liquors was considered in the legislature. The chief purpose of the measure, according to Samuel Carpenter's remarks in the council, was budgetary rather than regulative. Carpenter argued for a customs tax on imported liquors to raise money for the support of government, and on the same day the council laid duties on brandy, beer, ale, Spanish and French wines, cider, and "all sorts of strong liquors and spirits."<sup>38</sup> In the early days Penn refused to accept the returns from export and import taxes for a "supply," however, "for that he was of opinion that taxes in the infancy of a colony would cramp the industry of the people,"<sup>39</sup> an argument not unfamiliar to modern ears. Later, however, he was reduced to the necessity of pleading for a supply.<sup>40</sup> The council prepared a bill in June, 1700, "laying an impost upon wine, rum, cider, liquors retailed, for the proprietor's use and support." Penn approved this levy on June 7.<sup>41</sup> There is no evidence that he looked upon the liquor tax as chiefly regulative. It was to him largely—though perhaps not wholly—an instrument to produce revenue. During his hurried final month in America, for example, when the assembly petitioned for the removal of "the several clogs and burdens upon trade"—among them "the duties on liquors"—Penn replied "that in case they would give an equivalent he was content."<sup>42</sup>

The Founder approved poll taxes as means of raising money. Such a tax was one of the expedients adopted for revenue purposes in 1684.<sup>43</sup> Again, on June 7, 1700, along with seven other bills, "the law for raising one penny per pound and six shillings per

<sup>38</sup> *Col. Rec.*, I, 99-100 (entry for March 28, 1684).

<sup>39</sup> "Report of the Lords of Trade," Feb. 13, 1710/11, Penn-Forbes Collection, I, 15.

<sup>40</sup> See Penn to Logan, Sept. 8 and Nov. 3, 1701; June 21, 1702; Feb. 24, 1702/3; June 6, Aug. 27, and Dec. 4, 1703; and Jan. 16, 1704/5, *Penn and Logan Correspondence*, I, 53-54, 59-61, 111, 112, 166-167, 188, 205, 211, 250, 351-352.

<sup>41</sup> *Col. Rec.*, I, 611-612 (entries for June 5 and June 7, 1700).

<sup>42</sup> *Ibid.*, II, 53 (entry for Oct. 23, 1701). Compare Norris to Ford, June 13, 1700, *Penn and Logan Correspondence*, I, 4; and Penn to Governor Grey of Barbados, Nov. 12, 1700, Letter Book, 1699-1701, p. 43.

<sup>43</sup> *Col. Rec.*, I, 99 (entry for March 27, 1684).

head for payment of the public debts of the government" was approved by the proprietor.<sup>44</sup> Another device to support government in the province was the tax on skins. The council voted in April, 1683, that skins should not be prohibited but that a tax be "laid upon them."<sup>45</sup> The assembly levied a "very inconsiderable" tax in 1700 on the importation of sugar, amounting to "about five per cent if indirectly, else nothing." This tax supplemented an impost on rum amounting to about three pence a gallon.<sup>46</sup> Penn believed that the land should bear its proportion of the tax. The council in Pennsylvania began soon after its organization to draw up schemes for the taxation of real property. The purpose of such levies, in the first case announced, was "to defray the public charge."<sup>47</sup>

Penn's opposition to the Established Church, discussed in an earlier chapter of this study, necessarily involved opposition to taxes levied for the purpose of maintaining the Establishment. He recognized the injustice of tithes. One of his early attacks on this system of taxation is a manuscript preserved in his early Letter Book.<sup>48</sup> He declared in this tract that tithes had been "founded in murder and adultery . . . and so wrested from the people quo jure, quave injuria" by King Offa and King Edgar. These monarchs, he said, gave tithes to Rome for their own wicked deeds, taking one-tenth of the rights of their subjects in their estates, which they had no right to do. Thus as "it appears by history that it came not of the people to give their tenths to the pope but of the king for his wicked deeds," these taxes were really founded in an occasion that was "unjust questionless." For even if under Offa, the ruler's right to his subjects' property was dubious, it seemed to the young Penn that under Edgar, "the monarch by covenant after Alfred," the subjects' right to their property was established; "and therefore the people had a right in

<sup>44</sup> *Ibid.*, pp. 612-613 (entry for June 7, 1700).

<sup>45</sup> *Ibid.*, p. 72 (entry for April 2, 1683).

<sup>46</sup> Penn to Governor Grey, Nov. 12, 1700, Letter Book, 1699-1701, p. 43.

<sup>47</sup> *Col. Rec.*, I, 70, 93 (entries for March 30, 1683 and Jan. 17, 1684).

<sup>48</sup> Letter Book, 1667-1675, pp. 177-180. This tract is not addressed to any one in particular and bears neither date nor indication of the place where it was written.

their estates which the king could not dispose of; and therefore the tenths wrested from them." Thus, tithes began as royal robbery through which the kings supposedly expiated other sins.

A second argument against tithes was that, even if they had originally been given by the people themselves "to the priests for the remission of their sins," that fact ought not bind men of later ages: "that does not oblige their posterity of this age to give the tenths of their labors to their succeeding priests for to deceive their souls." Penn used an economic argument based on the rights of property to support this conclusion: "they could not give them that which was not theirs, the labors of other men, and to those that were not their heirs nor assigns, though their successors in their deceitful trade. This stands not with the law of God and fundamental laws of the land. . . ." Moreover, the fact that tenants might enjoy the use of common lands without the infliction of tithes was an argument against the fundamental justice of this exaction, "the priest as such getting nothing of it." After enclosure, however, "if it be afterward manured and plowed, immediately comes the priest and sweeps away the tenth of the labors." Such a practice Penn found unreasonable.

On other occasions, as has been indicated, Penn's arguments against tithes were based on conscientious objections. He wrote in the *Brief Account of the Rise and Progress of the People Called Quakers* that Friends refuse to pay tithes for two reasons: "The one is, they believe all compelled maintenance, even to gospel-ministers, to be unlawful, because expressly contrary to Christ's command, who said, 'Freely you have received, freely give' "; and the second reason is "because those ministers are not gospel ones, in that the Holy Ghost is not their foundation but human arts and parts. . . ." <sup>49</sup> In *Primitive Christianity Revived* Penn said that the Quakers refused to pay tithes, "or such-like pretended dues," not because they were covetous or capricious but because "We cannot support what we cannot approve, but have a testimony against; for thereby we should be found inconsistent with ourselves." <sup>50</sup>

Penn believed in taxation for the support of government, and in some of his writings there is indication that he at least thought

<sup>49</sup> *Works*, I, 868.

<sup>50</sup> *Ibid.*, II, 874.

of its possibilities as a regulatory agent. He believed in municipal improvements at public expense. Thus, he planned some improvements in the "streets and watercourses of the town of Philadelphia and to order the pitching, paving and gravelling thereof, as also the clearing of docks where such may be and repairing landing places and bridges in the said town," and he instructed the committee in charge to lay an assessment upon the inhabitants of the town for the costs.<sup>51</sup> Such activities were, in Penn's opinion, properly the function of government. For the most part, the purpose of taxation, as he conceived it, was plainly financial. No tax levied by the legislature in his province was primarily for protecting an industry, for regulating business, or for redistributing wealth. The revenue measures passed by the legislature were, in Penn's words, "law of their own making." After the Founder's return to England in 1684 there was great dispute about the relations of the council to the assembly and about such matters as the legal wording of clauses in enactments; there was none about the power of the representatives of the Pennsylvanians in legislature assembled to tax them.

When the question of intercolonial or imperial finances arose, as has been noted earlier, the Quakers were not so docile. Penn loyally attempted to redeem the promise he had made upon securing the restoration of his province in 1694—namely, to contribute to the defense of the other English colonies against the French. Assenting—though with reluctance—to the requirement that the Pennsylvanians be taxed to furnish the sinews of war to the empire, he labored unsuccessfully to persuade the assembly to vote the three hundred and fifty pounds levied as the provincial quota for the defense of New York. Although he declined to ask in his own name for this money and based his entire argument on the royal letter requesting action on the matter, it must be supposed that he accepted—at least tacitly—the principle that taxation for imperial defense was practically, if not theoretically, a legitimate exercise of sovereign power.

Penn once expressed approval of a tax upon "strong spirits and liquors" on the ground that it seemed "the most insensible way to supply the wants of our government, for the rich and the drunkard

<sup>51</sup> Unsigned draft by Logan, June 2, 1701, Logan Papers, III, 14.

will be most concerned in it.”<sup>52</sup> Beyond such a statement there is no evidence in his extant writings that he held the benefit theory of tax distribution.<sup>53</sup> He did not philosophize to any marked extent about taxation, with the exception of the maxims in *Fruits of Solitude* and the early polemics on tithes. It may be assumed that he, like most colonial fiscal administrators, held the theory that, to use E. A. J. Johnson’s language, “the one guiding principle of colonial tax distribution was simply that of fiscal expediency.” Penn’s general philosophy on the subject of taxation was probably that of the English landholding class of his age. He was financially a conservative and might today in certain quarters be described as “unenlightened” or “reactionary.” He was clearly able to see some types of injustice, and in *Fruits of Solitude* he may perhaps have hinted at the inequities of a system of taxation not based on ability to pay. His idealistic theory of government, however, indicated neither an effective detailed understanding nor even a bare comprehension of this problem. Land taxes, import duties, excises, and poll taxes bore on all alike. But in this respect, as in so many others, Penn was neither more nor less enlightened than most men of his day.

Early in his career as proprietor of Pennsylvania William Penn was obliged to formulate some policy with reference to monopoly in trade and in land. Since Article XVII of the Charter conferred upon him complete title and control over the soil to which it applied, problems of organizing this new territory confronted the Founder almost at once. In the summer of 1681, some months after he had received the grant from the Crown and had begun to advertise his lands for settlement, he was approached by a group of traders who wished to buy a monopoly of “the Indian trade from south to north, between the Susquehannah and Delaware Rivers.” He was offered two and one-half per cent “acknowledgment or rent.” Penn called this episode “a great temptation.” He refused the offer, apparently because he feared that such a monopoly would interfere with the success of the “holy experi-

<sup>52</sup> Penn’s instructions to Turner, March 31, 1684, American Philosophical Society MSS, Penn Letters and Ancient Documents, I, 46-47.

<sup>53</sup> For a discussion of this theory among colonial legislators, see Johnson, *op. cit.*, pp. 258-259.



ment." His explanation to Turner can hardly bear any other construction: "But as the Lord gave it [Pennsylvania] me over all and great opposition, and that I never had my mind so exercised to the Lord about any outward substance, I would not abuse His love, nor act unworthy of His providence, and so defile what came to me clean. . . ." <sup>54</sup> Channing says that Penn feared that the natives would be ill-treated. Hull thinks the Founder's action the result of the subordination of his desire for temporal prosperity to higher ideals. <sup>55</sup>

By the middle of September, 1681, there is some evidence to show that Penn's land policy subsequent to that date may not have been entirely his own. He informed Crispin, Bezar, and Allen on September 30 that certain resolutions affecting his policy had been reached at a meeting of purchasers in London fifteen days earlier. <sup>56</sup> The next spring he granted to Nicholas Moore, James Claypoole, Philip Ford, and others a charter creating a company to be known as the Free Society of Traders and assigning to this group certain "most extraordinary powers and privileges." <sup>57</sup> Penn's patent constituted this company "a corporation by that name, to all intents and purposes, for the better improvement of trade, to sue and be sued, and to answer and be answered by that name." The corporation was to possess twenty thousand acres erected into a manor called Frank; and the members of the corporation and their successors were "from time to time, and at all times hereafter," to "receive, take, and enjoy, all such rents, customs, and services reserved as aforesaid, together with all other services incident to the said tenure, and all the fruits and consequents thereupon, to their use and behoof." <sup>58</sup> They were even granted some exemptions from the jurisdiction of provincial courts. The goods of "freemen of the said Free Society" were to be "quit and free throughout the province, and the ports thereof, and from all toll, passage, lightage, and all other customs and payments whatsoever,

<sup>54</sup> Penn to Turner, Sept. 4, 1681. Part of this well-known letter is printed in Hazard, *Annals of Pennsylvania*, pp. 521-522. It is also printed in part in Janney, *op cit.*, pp. 166-167.

<sup>55</sup> Channing, *A History of the United States*, II, 114; Hull, *William Penn: A Topical Biography*, p. 223.

<sup>56</sup> Hist. Soc. of Pa., *Memoirs*, Vol. II, Part I, p. 217.

<sup>57</sup> The phrase is that of Hazard, *Annals of Pennsylvania*, p. 541.

<sup>58</sup> *Ibid.*, p. 543.

excepting only such as shall be taxed by common consent of the provincial council and general assembly of the said province. . . ." This society had the right to develop trade, mining, whaling, and other fisheries; but it appears to have failed in spite of the exemptions of which it was the beneficiary.<sup>59</sup>

The "List of Purchasers," printed by Hazard as of May 22, 1682, shows that more than three dozen persons had received grants of five thousand acres each from Penn on or before that date. Among the larger allotments is one of ten thousand acres to his two minor children, William and Letitia.<sup>60</sup> As for himself, Article IX of the Conditions and Concessions of July 11, 1681, reserved to the proprietor ten thousand acres in every hundred thousand, and the proprietor's lands were to "lie but in one place."<sup>61</sup> Penn qualified this reservation in his instructions about the laying-out of Philadelphia by declaring that he wished set aside for himself not one-tenth of the town but "less than a thirtieth part."<sup>62</sup> The conclusion is clear that Penn's Quaker principles did not forbid the granting of large areas of land to individuals or companies, nor did they deny to the Founder the right to build for himself an estate of magnificent proportions.

Penn was a determined enemy of poachers and squatters. Not only did he suffer losses from the failure of renters to pay him just returns, but he was vexed from time to time with the invasion of his properties by irresponsible persons, whose respect for the rights of ownership was most elementary. He found it necessary to invoke prompt measures against cattle- and horse-thieves, and he wrote to Logan urging the enactment of laws against the indiscriminate felling of trees on lands belonging to persons other than those effecting the clearing.<sup>63</sup> A letter describing the alleged lack of respect of the Irish for property throws light on Penn's views not only as an Englishman but as a propertied man.<sup>64</sup>

Penn's views as to money were certainly affected by the inade-

<sup>59</sup> Shepherd, *op. cit.*, p. 45; Hazard, *Annals of Pennsylvania*, pp. 544-549.

<sup>60</sup> Hazard, *Annals of Pennsylvania*, pp. 528, 637-642.

<sup>61</sup> *Ibid.*, p. 518; Shepherd, *op. cit.*, pp. 18-19; Taylor Papers, Vol. I, No. 5.

<sup>62</sup> Hazard, *Annals of Pennsylvania*, p. 530.

<sup>63</sup> Penn to Logan, Sept. 5, 1700, and Feb. 20, 1702/3, *Penn and Logan Correspondence*, I, 15, 164.

<sup>64</sup> Penn to the Lords Justices of Ireland, July 1, 1698, Penn-Forbes Collection, I, 52.

quate volume of the currency not only in his own but also in the other English colonies in North America.<sup>65</sup> A conservative defender of the rights of property would normally be a sound-money man; but Penn was also a trader and he knew the inconvenience of the scarcity of coin in the province.<sup>66</sup> During his first sojourn in America the council devoted no little time to debating the state of the provincial currency. The members, under Penn's presidency, discussed the value of pieces of eight, and the proposal that they should "go by weight" was voted down.<sup>67</sup> The council unanimously agreed a year later upon a bill to make land and certain commodities recognized articles of barter, "a bill concerning lands, corn, beef, pork, tobacco, hides, etc. to go for current pay. . . ." <sup>68</sup> The question was even more pressing during Penn's second visit to the province. The council undertook in 1701 to remedy the scarcity of coin in Pennsylvania by the mercantilist device of encouraging home industry. East Jersey seemed "a means to exhaust this government of their coin, to pay for the cattle imported for the supply of Philadelphia." The councilors decided to prevent this movement of specie and adopted a series of regulations governing the raising and slaughtering of sheep and cattle. They presented to the assembly the following proposals:

that every person throughout this province and territories who has forty acres of clear land shall keep at least ten sheep. . . . that no person shall kill, or sell to be killed, above one half of their growing neat cattle. . . . that there shall be no neat cattle killed or sold to any of the inhabitants of Philadelphia town from the tenth day of the fourth month to the tenth of the seventh month on any pretence whatsoever.<sup>69</sup>

Penn approved these proposals, which then were to be passed by the assembly.

The prevailing scarcity of money caused a rise in the rate of

<sup>65</sup> For general treatments of colonial currency, see Channing, *A History of the United States*, II, 496-507, Greene, *Provincial America, 1690-1740*, pp. 39-40. For a discussion of finance in early Pennsylvania see Shepherd, *op. cit.*, chap. ix, "The Bills of Credit," pp. 401-434, and Root, *The Relations of Pennsylvania with the British Government*, pp. 182-183 ff.

<sup>66</sup> For example, Penn to Logan, Dec. 7, 1703, *Penn and Logan Correspondence*, I, 258; Penn to Logan, Nov. 2, 1704, Penn MSS—Penn Family to Logan, I, 21.

<sup>67</sup> *Col. Rec.*, I, 72 (entry for April 3, 1683).

<sup>68</sup> *Ibid.*, p. 102 (entry for April 2, 1684).

<sup>69</sup> *Ibid.*, II, 27 (entry for Aug. 1, 1701).

sterling exchange in Pennsylvania.<sup>70</sup> Penn argued that the money which pirates brought into the province was passed on to England: "what money they [pirates] brought in from first to last, you have it to make up the returns due to England upon trade. Insomuch that the whole continent labors under the want of money to circulate trade in the respective governments, which has put Boston herself upon thinking of tickets to supply the want of coin; and New York as well as this province are following."<sup>71</sup> Penn objected to the currency laws enacted in his absence by the legislators of Pennsylvania, statutes which sometimes raised the rate of exchange above that of the neighboring colonies. As Shepherd points out, the Founder's objection may well have arisen in part, at least, from his fear that as a creditor his interests would suffer.<sup>72</sup> In 1686, however, he indicated to Thomas Lloyd that he had another reason for objecting to the legal rate as established in Pennsylvania. He asked "that some course may be taken about the advance made upon money, especially English, in our province; some being of opinion that it makes an exception against my government to the grandees here." He added, "I wish that law dropped."<sup>73</sup> To the council in the same year, he wrote: "In the next session of your general assembly, pray view your laws well and see what are needless or inconvenient, especially about advancing the rate of money, in which we do but (hazardously) cheat ourselves, I fear."<sup>74</sup> He explained later to the Lords Commissioners for Trade and Plantations that the motive for the Pennsylvania laws on sterling exchange was "doubtless to bring into, or keep money in, the country." He told the Board in explanation of his own conduct: "But I frequently discountenanced it, as much as I could, and expected directions from hence for a standard for it and the rest of the colonies upon the continent at least, according to my letters to you upon that subject. . . ." <sup>75</sup> He signified his disapproval subsequently of "the advance upon

<sup>70</sup> Shepherd, *op. cit.*, p. 402; *Charter to William Penn and Laws of the Province of Pennsylvania*, pp. 145-146, 238, 275.

<sup>71</sup> B.T.P., VI, G 12. Penn's communication is dated March 6, 1701.

<sup>72</sup> Shepherd, *op. cit.*, p. 402. Compare also *Col Rec.*, I, 558

<sup>73</sup> Penn to Thomas Lloyd, April 21, 1686, Penn MSS, X, Dom. & Misc. Letters, p 83.

<sup>74</sup> Dreer Collection—William Penn's Letters, p. 18.

<sup>75</sup> B.T.P., VII, L 3, entered folio 258, read Dec. 1, 1702.

coin in America and the inequality of it." The colonists, he thought, "deceive themselves in it." <sup>76</sup>

This letter, dated April 21, 1703, contains a fuller exposition of Penn's financial philosophy than that which he originally gave. He asserted in this communication that he wished that all money were at a par, "that an ounce of silver should be an ounce of silver in all the dominions of the Crown." But he found the main difficulty in the fact "that for want of returns to England all our money will be sent in a little time thither." Such a condition, though he thought perhaps it "may be what England would like," would be "what the plantations, the northern especially, will take very ill." Moreover, he believed that the flow of money to the mother country in lieu of goods would not "serve England at long run, any more than the plantations." The latter "for want of coin to circulate trade among themselves, must dwindle in trade, and the more because not trading with the Spanish dominions as formerly, their [*sic*] will not be that supply and recruit of money, as formerly." Penn hinted in this letter at several possible remedies for the situation. He thought that a bank might be helpful, if "practicable"; that "paper credit" might serve in place of the silver which was being drained out of the province to the mother country; or that the Queen might allow a colonial mint. "In short," he concluded, "our money must be melted, marked, or weighed." Fourteen years earlier there had been talk of a "bank of credit" for Pennsylvania, and Penn had sent to Blackwell, under date of September 25, 1689, a communication for the latter from Edw. Robert or Roberts, in which the proposed bank is supported, "the prosperity of which will be in laying the foundation of trade and in the increase of corn, cattle, whale oil, skins, etc." <sup>77</sup>

Queen Anne altered the Pennsylvania law by the famous proclamation of 1704 "fixing the rates of foreign coins in the colonies." <sup>78</sup> Logan, writing from the province, urged Penn to have nothing to do with the lowering of their money. He argued the dissatisfaction of the people with such action and also the damage which would

<sup>76</sup> B.T.P., VII, L 27, entered folio 311. See also Letter Book, 1699-1701, p. 152.

<sup>77</sup> Dreer Collection—William Penn's Letters, p. 29.

<sup>78</sup> This proclamation was dated June 18, 1704. It was confirmed by act of Parliament in 1708, 6 Anne, chap. xxx. Shepherd, *op. cit.*, p. 403; Channing, *op. cit.*, II, 499.

be inflicted upon the holders of contracts.<sup>79</sup> Penn replied by sending the Queen's proclamation with a disclaimer of any responsibility in the matter. The royal action, he said, was "general, none of my doing, nor indeed my opposing, for your practice is run down by all the men of good sense or good morals at this side or end of the world. . . ." <sup>80</sup> He was not responsible, but it is clear what his sympathies were. The same position was evident in the course he took at the earlier conference of governors at New York in 1700. It will be recalled that one of the measures proposed by the group, approved if not suggested by Penn, was an act to establish an imperial standard for money throughout the English continental colonies. Coupled with this recommendation was the suggestion that a mint be set up at New York for all of the colonies. Such measures, Penn thought, "would help trade much and travellers." <sup>81</sup> The question as to what effects the enactment of such measures might have had on the course of American history during the eighteenth century offers tempting matter for speculation.

By 1705 Penn was advocating the cause of cheaper money. He wrote to Logan in that year, desiring "that a bill I send now, to make bonds assignable and current pay, whether the assignees live or die, be passed in the first assembly, since money is so scarce." <sup>82</sup> To this proposal for legal tender paper, based on private securities, he added a wish that the colony had a land bank, "that so payments might be made easier to all parties." As a check upon too great inflation, however, he appended the proviso that the lands used as collateral should not be overrated.

The practice of counterfeiting, common in the earlier days of the colony, encountered Penn's vigorous opposition. Three alleged counterfeiters were examined before the council in October, 1683. After trial by jury they were found guilty of tampering with coins, "putting away of bad money." Penn sentenced the chief offender, one Charles Pickering, to "make full satisfaction in good

<sup>79</sup> Logan to Penn, Feb. 15, 1703/4, *Penn and Logan Correspondence*, I, 269.

<sup>80</sup> Penn to Logan, July 11, 1704, with postscript dated the following day, *Logan Papers*, I, 50. Penn told Logan that in the papers forwarded to the latter in that communication there was "a salvo to thy objection of precontracts too," but this document has not come to the attention of the present writer, if it be still extant.

<sup>81</sup> Penn to the Board of Trade, Dec. 8, 1700, *Letter Book*, 1699-1701, p. 49.

<sup>82</sup> Penn to Logan, April 30, 1705, *Penn MSS—Penn Family to Logan*, I, 231½, printed in *Penn and Logan Correspondence*, II, 15.

and current pay to every person that shall within the space of one month bring in any of this false, base and counterfeit coin (which will tomorrow by proclamation be called in), according to their respective proportions . . ." Pickering was further sentenced to pay a fine of forty pounds, a heavy sum in proportion to other amercements, "towards the building of a court house in this town." <sup>83</sup> A later entry in the *Colonial Records* notes an order to the sheriff that he "go to Charles Pickering and receive as much good money, or value thereof, as he hath received of the people in bad money, and pay the same respectively to the people as he received the other from them." <sup>84</sup>

William Penn believed that rightful possession was to be protected by the full force of the law. Contracts and engagements were sacred. The propertied classes, the creditors, were to be shielded, by the ballot and otherwise, against the irresponsibility or dishonesty of others. Yet he denounced such typical vices of the wealthy as covetousness, pride, and luxury, and he even suggested a luxury tax as an effective means of checking these sins.

Penn did not believe, however, in taxation as a general program to redistribute the wealth of the land. Except as just indicated, he did not recognize its possibilities as an agent of social change or progress. He left no recorded views about the proper incidence of taxation. He regarded taxes as useful chiefly, if not entirely, to supply the needs of a very simply organized government. He opposed tithes.

Penn's policies with respect to debtors and creditors were the result of a complex of various factors. His position as landed proprietor and capitalist, his political authority as the chief law-enforcing agent under the Crown, his individualistic respect for ownership and for the sacredness of agreements—all these factors would insure his care for the interests of the creditor. On the other hand, his sympathy for the poorer classes of society, from among whom the majority of his own sect had sprung, would incline him to view with concern and friendliness the debtor's struggles. Moreover, among those classes which he had pronounced fittest for colonizing purposes were the economically submerged—or partially

<sup>83</sup> *Col. Rec.*, I, 84-88 (entries for Oct. 24, Oct. 25, and Oct. 26, 1683).

<sup>84</sup> *Ibid.*, p. 92 (entry for Dec. 27, 1683).

submerged—groups. For example, among “the persons that Providence seems to have most fitted for plantations” were: “industrious husbandmen and day-laborers, that are hardly able (with extreme labor) to maintain their families”; “laborious handicrafts, especially carpenters, masons, smiths, weavers, tailors, tanners, shoemakers, shipwrights, etc., where they can be spared, or are low in the world . . .”<sup>85</sup> Such persons would be likely to find easier conditions for debtors an additional reason for leaving the Old World.

Penn was essentially a conservative in his financial theories, but he was also one who preferred to meet practical conditions with practical measures. He believed in lawful money at a fixed imperial standard, based on silver as well as gold; but he saw the impracticability of the attempt to restrict the colonists to a medium of exchange which the currents of trade inevitably carried away from them almost at once. His remedies came to be inflationary, but he qualified this radical tendency by caution lest the currency too greatly depreciate.

The motives animating Penn’s defense of property in England differed widely from those inspiring his defense of property in America. The term “property” had a quite different meaning in the two cases. In the battle for religious toleration Penn’s was the voice of an oppressed people struggling for what they claimed as their rights against the lawfully established politico-ecclesiastical order. In America he reversed (in a sense) his attitude and spoke for the propertied groups whose position was guaranteed by the legally recognized social order. The people he opposed in the New World resembled in their economic situation rather the poor dissenters in England than the political and ecclesiastical rulers of the land against whom he had done battle in the Old World. Penn had been a rebel in England; in America he was combating the social and economic outcasts whose lack of respect for the vested rights of property was causing the landholding class—and the Founder himself—much concern and even financial loss. Circumstances had forced the Quaker to yield to the authoritarian.

<sup>85</sup> Penn, “Proposals to Adventurers,” Hazard, *Annals of Pennsylvania*, p. 511.



## Chapter IX

### MERCANTILIST AND PATERNALIST

*Colonies, then, are the seeds of nations begun and nourished by the care of wise and populous countries, as conceiving them best for the increase of human stock and beneficial for commerce.*

*It is trade must make America valuable to England, and if the industry of the inhabitants be not encouraged and well conducted, the colonies must either sink or become a great charge to the Crown to support them. I take the boldness to affirm, here lies the clinch of the business, and other discourses are more entertaining than useful.*

*For where trade ceases, the revenue cannot increase nor England get by the foreign labor of her inhabitants; settled places and traffic will not easily be checked; they will bear strictness that know the laws and have often been informed, but in new colonies all ways possible should be used to excite and encourage trade, for that is serving England and the King, since a pining one will neither enrich him nor them.*

—WILLIAM PENN

THE ROYAL CHARTER conveying Pennsylvania to the Founder listed among the purposes of the grant the extension of the British empire. Penn's remarks to the Board of Trade and to others both when he was defending his proprietary rights against vacation and when he was negotiating for the surrender of his government show that he recognized this purpose.<sup>1</sup> The "holy experiment" was essentially the building of a state. In the larger sense of the term, made clear by Gustav Schmoller, William Penn was a mercantilist.<sup>2</sup>

<sup>1</sup> B T P., IX, Q 4 (entry for Dec. 7, 1700); Penn to Lawton, Dec. 21, 1700, Letter Book, 1699-1701, p. 80. See also Penn to Dartmouth, July 28, 1683, Taylor Papers, I, 77.

<sup>2</sup> Schmoller, *The Mercantile System and Its Historical Significance*, pp. 50-51, writes: "Only he who thus conceives of mercantilism will understand it; in its innermost kernel it is nothing but state making—not state making in a narrow sense but state making and national-economy making at the same time; state making in the modern sense, which creates out of the political community an economic community, and so gives it a heightened meaning. The essence of the system lies not in some doctrine of money, or of the balance of trade; not in tariff barriers, protective duties, or navigation laws; but in something far greater:—namely, in the total transformation of society and its organization, as well as of the state and its institutions, in the replacing of a local and territorial economic policy by that of the national state."

Soon after his receipt of the royal Charter, Penn set forth at length some arguments in favor of colonization.<sup>3</sup> He pronounced it an activity from which "some of the wisest men in history have justly taken their fame." In a manner reminiscent of Thomas Mun's justification of "forraign trade," he listed reasons to oppose "the vulgar opinion" that colonies "weaken England." Labor was more valuable in the plantations than in England, for it produced there "commodities of a superior nature" compared with those of the mother country. The value of an acre in Jamaica or Barbados, said he, was three times the worth of the same unit in England. Colonial products, moreover, were sent to the mother country, usually to be paid for "in English growth and manufacture." The surplus produced by the plantations over and above the needs of Englishmen could be exported to other European countries, "which brings in money, or the growth of those countries, which is the same thing, and this is the advantage of the English merchants and seamen."<sup>4</sup> A higher standard of living was possible in the colonies; men would remain unmarried in England who were able to marry and raise families in the New World. A larger market would thus be created for English goods. The development of shipping caused not only the employment of many seamen but also a corresponding increase in "other depending trades," by which unemployment was reduced and the mother country was the gainer. Another advantage, not to be omitted, was the customs duties, which brought in revenue for the Crown.

Penn held optimistic beliefs about the potential productivity of his province, but he felt that favorable conditions must be guaranteed by the English government. "Trade," he wrote, "must make America valuable to England; and if the industry of the inhabitants be not encouraged and well conducted, the colonies must either sink or become a great charge to the Crown to support

<sup>3</sup> These arguments appear in Penn's "Proposal to Adventurers," Hazard, *Annals of Pennsylvania*, pp 505-513.

<sup>4</sup> Penn may have shared Mun's view that the proper national policy should not be the prevention of the export of specie, but the welcoming of the importation of the "growth" or the "wares" of other countries, even though such a flow of trade result in the temporary reduction of the national treasure as measured in "ready money." See Mun, *England's Treasure by Forraign Trade*, chap iv, pp. 19-27.

them.”<sup>5</sup> Maladministration of the acts of trade, for example, he wrote Harley, might produce a discouragement in Pennsylvania “whereby trade is crushed in the bud, and we only turn planters, or farmers, endeavoring a self subsistence and there’s an end of a colony to the Crown; for where trade ceases, the revenue cannot increase. . . .” He went on to urge that “in new colonies all ways possible should be used to excite and encourage trade, for that is serving England and the King, since a pining one will neither enrich him nor them.” Penn did not elaborate the possible ways of stimulating trade. His remarks in this letter apparently refer chiefly to the necessity of equable laws and the proper administration of them, and not at all to any governmental subsidy. He went on in this communication to list the possible products “of the northern countries or colonies” which might enrich the mother country “if the Crown would encourage every climate, in those things it is proper for.” It was possible to produce, he said, silk, oranges, lemons, wine, hemp, flax, tar, masts, “and abundance of crooks, knees, and stately plank for shipping.” English mines, he thought, had destroyed much of the timber needed in England, and America had enough for her own use and for that of the old country. With reference to the possibilities of lumbering in the colonies, Penn wrote: “If great undertakers there [in England] would fall upon it here, we might supply England and give her woods time to recover, and convert these countries to arable and pasture, into the bargain.” Thus he advised the diversification of American production to supplement the trade in tobacco, furs, skins, fish, whale oil, and provisions for the West Indies.<sup>6</sup>

He informed another correspondent during the same year that the Pennsylvania staples were corn and tobacco; but that “we are trying for rice, converted timber for shipping, and hemp.” He praised the breadstuffs shipped from Pennsylvania to Barbados and elsewhere. They were superior to the product of neighboring colonies, “being the whitest and preferred.” Much of the grain of his province, he said, was exported to New England, Maryland,

<sup>5</sup> Penn to the Board of Trade, B.T.P., Vol. VI, Part I, G 31 (entry for July 2, 1701). A copy of this letter is in Letter Book, 1699-1701, p. 109.

<sup>6</sup> Penn to Harley, 1701 [month and day unknown], Hist. MSS Com., 15th Report, App., Part IV, *Portland MSS*, pp. 30-31.

Virginia, and Carolina, "where wheat will hardly grow, but rice to perfection, and silk is got to a good pitch, and will certainly be a commodity." The problem for the Pennsylvanians was how to procure "returns for England," and he wrote that "either we must have less from thence or better ways of making them."<sup>7</sup> Before his colony was twenty years old, difficulties turning about the balance of trade were appearing, and William Penn had recognized the serious problem which was to perplex the colonial merchants and planters until the Revolution: the means of paying, under the English commercial system, for the importation of indispensable English goods.

The threatened vacation of the proprietary charters during the opening years of the eighteenth century gave Penn occasion to set forth his views upon the superiority of private enterprise in the work of colonization. Before he left Pennsylvania in 1701, he wrote his friend Harley a long letter on the subject. Proprietary colonies, he argued, were improvements in the interest of the Crown "at other folks' cost." Proprietors had "a better caution and security for their conduct" than royal or "mercenary" governors. They, moreover, had to give bond to the Crown for the "faithful discharge" of their duty; and the King had, in addition, many royal officials to check and spy upon them. "A King's governor," he said, may come [to America] "only to get money, and is perhaps indigent," and such an officer would be subject to temptations at least equal to those confronting a proprietary governor. He said on this point that he knew "not what they may do, but what they have done favors my argument." It was proved that royal governments would not prevent "false trade," for he had "convinced the Lords . . . that notwithstanding the activity and vigilance of Governor Nicholson, and the almost ubiquity and penetration of the other single-eyed gentleman, Maryland since a King's government was twenty-seven times a greater sinner than we were." This result was naturally to be expected, he argued. "It can never enter the head of any reasonable man, that we should labor to cut the grass under our own feet, which we must do, if to let others be rich we would ruin ourselves, by being the security of the whole to the Crown."

<sup>7</sup> Penn to Lowther, June 16 [or Aug. 16?], 1701, Hist. MSS Com., *13th Report*, App. VII, *Lonsdale MSS*, p. 246.

Furthermore, "they that improve most are the profitablest colonies to the Crown, but those are known to be the proprietary ones." Royal colonies, he insisted, "rise more by trade than culture"; and, therefore, such provinces are "most likely to be vicious in trade." The staples of Pennsylvania were provisions for the West Indies; and with respect to these products, he declared, "we have not the opportunity of false trade, if we had the inclination." Those colonies most likely to be guilty of illegal commerce were those "that trade above their own produce." Such Pennsylvania was not, since she had not enough shipping to export half of her products but had to use bottoms from New York and New England. Penn thus based his defense of proprietary provinces on the argument that they were more efficient agents than were the royal colonies in the enforcement of the English commercial policies.

The author of these arguments was, of course, no disinterested statesman weighing impartially the merits of two conflicting policies. His concluding sentences make this fact quite clear, and thus stamp his case as perhaps largely a rationalization. He noted for Harley's attention the points that "no King's governor in America has obeyed and pursued the King's directions more readily and vigorously than I have done"; that he had performed the duties of a royal governor at his own expense; that he had made several grants of power to the royal government with reference to appeals, laws of trade, and the royal inspection of Pennsylvania laws for the King's assent; that he had invested a fortune in Pennsylvania and had lost it. He ended with the insinuation that perhaps the real objection against proprietary governments rested upon the desire that no dissenters be permitted to govern or that such powers and patronage as the proprietary governors possessed be transferred to other hands.<sup>8</sup>

Thirty months later Penn wrote again to Harley on the same subject. He repeated the assertion that the colonies thrive better in proprietary hands than in those of the royal governors. He complained that those who "went thither [to America] to be quiet, by ample grants from the Crown, to make and keep ourselves easy and safe in our civil and religious privileges, . . . are made extremely

<sup>8</sup> Penn to Harley, Aug. 27, 1701, Hist. MSS Com., *15th Report*, App., Part IV, *Portland MSS*, pp. 19-21.

uneasy by officious and turbulent persons, who to recommend themselves to the bishops and especially of L—— [Bishop of London?] here, do us all the despite they can, in the name of the Church, and the revenue. . . ." These attacks sprang from a design which he described as "barbarous as well as unjust." He maintained for Pennsylvania "that we have done more to make a country in twenty three years than any of the colonies called the Crown's have done in a hundred years." Evidence to support this statement he found in the fact that his province had more and larger towns than Virginia. He stated that other proprietary colonies—naming New England, Plymouth, Connecticut, New York, and the Jerseys—also had larger towns. In the Jerseys, he said, "converse, education, and traffic are to be had, the way to make a country and civilized mankind, as well as for preservation."

This letter concluded with the argument that if the government of Pennsylvania were to be taken away from Penn, he was entitled to a suitable compensation. His reasons in support of this position included the statement that he had lost money on the province which had been granted to him by the Crown but improved by his own efforts and expenditures. He said that he had paid his deputies out of his own estate and had been obliged to protect his rights for the period from 1681 to 1703. Moreover, he had never been given more than two thousand pounds sterling to defray his expenses, and that sum, received three years previously, had been insufficient. Finally, the colony, granted him in payment of a debt owed by the Crown to Admiral Penn "for the victualing of the navy 1667," had not been a source of profit to him, but a loss. It would be "an irreparable disappointment of the people that made it a country, who were neither criminals nor necessitous," unless some confirmation were made of the constitution and laws under which he had settled them. He concluded with the remarkable statement that in compensation for the resignation of his government to the Crown he had asked "some honorary mark, as a founder of the colony, viz., as the first—hereditary—Privy Councillor or Chief Justice, or the like." He did not, however, insist upon this honor but declared that he would be satisfied "with the rights of landlord and lord of the manor of the country." The printed extract of the letter ends with the mention

of his statement to the Lord High Treasurer that he would accept for his rights in government the sum of twenty thousand pounds.<sup>9</sup>

The Founder saw beyond the fact that colonies were "beneficial for commerce." He called them "the seeds of nations." Like Thomas Mun, who perceived in the various plantations territories "affording much wealth and employments to maintain a great number of poor, and to increase our decaying trade,"<sup>10</sup> Penn saw in Pennsylvania "that solitary part of the world where there was room and opportunity for those excellent methods of life and government. . . ." He went on to say: "T is not wealth or trade that makes a government great; the noblest examples of government that time has delivered down to us had little of either."<sup>11</sup>

The opposition of the Quakers to illicit trade sprang largely from religious principles. Robert Proud cites the epistles for the Philadelphia Yearly Meeting of 1715, 1719, 1732, and others to show that just dealing, "faithful subjection to the government, in all godliness and honesty," and the desire to "render unto the King what is his due, in taxes and customs, payable to him according to law," were the reasons given against "defrauding the King of any of the above mentioned particulars, and against buying goods reasonably suspected to be run."<sup>12</sup> Penn shared these theories. He wrote to the colonists in 1686 urging them to "take care that no offence be given to the King's officers, but that you treat them with respect, and rather suffer ourselves, than defraud him of his dues. . . ." <sup>13</sup> The following year he cautioned the governing commission in Philadelphia "to be watchful that none abuse the King in reference to his dues, and that you inspect the entries and clearings from the first of all ships that came to and went out of that province. . . ." <sup>14</sup> It has been shown earlier that he frequently used the well-known twenty-fifth verse of the twentieth chapter of Luke to explain his theory of the relationship of

<sup>9</sup> Penn to Harley, Feb. 9, 1703/4, Hist. MSS Com., 15th Report, App., Part IV, *Portland MSS*, pp. 79-81.

<sup>10</sup> Mun, *op cit.*, p. 13.

<sup>11</sup> Penn to the Council, 1686, Dreer Collection—William Penn's Letters, p. 18.

<sup>12</sup> Proud, *The History of Pennsylvania*, I, 51.

<sup>13</sup> Penn to the Council, 1686, Dreer Collection—William Penn's Letters, p. 18.

<sup>14</sup> Penn to Thomas Lloyd, Turner, More, Claypole, and Eccle, June 6, 1687, Penn MSS, X, Dom. & Misc. Letters, p. 85.

church and state. In economic matters, as in others, he demanded not only that God be given His due, but that Caesar also be remembered. Apart from any religious convictions, the Founder's loyalty to the English monarchy may be sufficient to account for his vigorous efforts to enforce the laws of trade. He consistently upheld the system of navigation acts. Though he did not always agree with the policy in detail, he accepted the system generally as legitimate regulation of the colonial trade. Finally, disobedience would have been dangerous. Powerful enemies would have rejoiced to see the proprietary charters forfeited, and Penn was fearful of presenting them with any argument to strengthen their case. The royal Charter of 1681 had explicitly committed him to support the English commercial system, "the acts of navigation and other laws in that behalf made. . . ." <sup>15</sup>

Illegal trading developed apace in Pennsylvania during the reign of William and Mary, and numerous reports reached the Board of Trade concerning violations of the acts of trade. It was decided in 1694 to station some vessels of about forty tons burden in the waters of Pennsylvania and Maryland to suppress the illicit traders. This action was taken while Pennsylvania was under the royal government of Fletcher,<sup>16</sup> but conditions did not soon improve. After the restoration of his province, Penn was frequently forced to defend the colonists against charges of laxness in the enforcement of the acts of trade, of rampant smuggling, and even of harboring pirates. Such allegations caused the Founder great alarm, and he answered them with vigor.<sup>17</sup> In the fall of 1695 the Board of Trade read two letters from Governor Nicholson of Virginia, in one of which he proposed "that a court of exchequer may be erected in Maryland, Pennsylvania, and Virginia for the

<sup>15</sup> Thorpe, *The Federal and State Constitutions*, V, 3040-3041.

<sup>16</sup> B.T.J., VII, 312-313 (entry for Aug. 8, 1694). This step was taken on the very eve of the restoration of the province to Penn. It would appear to be a complete answer to any who held the Quaker government solely to blame for the violations of the acts of trade in Pennsylvania waters, unless it can be shown that the policy was deliberately adopted as a precautionary measure in view of the contemplated withdrawal of the royal government and the return of the province to the proprietor.

<sup>17</sup> See Penn, "Concerning Certain Alleged Immoralities of the Province," *Pennsylvania Archives*, 4th series: *Papers of the Governors*, I, 108-109. See also Penn to "Esteemed Friends," Dec. 31, 1703, *Penn and Logan Correspondence*, I, 261.



trial of illegal traders, and that officers may be appointed for the admiralty in Pennsylvania where some of them are tried.”<sup>18</sup> Reports were reaching the Board nearly a year later of the illicit shipment from Pennsylvania to Scotland of tobacco, cloth, ticking, hose, and “sea coal.”<sup>19</sup> Penn wrote sharply on September 5, 1697, to the deputy and the council in Pennsylvania about such charges. He declared that the accusations which had reached the mother country “not only tend to our ruin, but disgrace. That you wink at Scotch trade and a Dutch one too, receiving European goods from the latter, as well as suffering yours, against the law and English interest, to go to the other; also, that you do not only wink at but embrace pirates, ships and men.” He asserted that he had seen reports from Philadelphia “that there is no place more overrun with wickedness, sins so very scandalous, openly committed in defiance of law and virtue; facts so foul, I am forbid by common modesty to relate them.”<sup>20</sup>

Penn was requested to appear before the Board on December 14, 1698, following the receipt by that body of other papers dealing with conditions in Pennsylvania.<sup>21</sup> Five days later he answered the complaints made against the government of his deputy, Markham.<sup>22</sup> He defended the latter and the Pennsylvanians partly on the ground of their “infancy and indifferent skillfulness in points of law” and hoped that they would be considered “not so disobedient as mistaken and ignorant.” He stated that he had followed

<sup>18</sup> B.T.J., VIII, 140 (entry for Oct. 30, 1695).

<sup>19</sup> B.T.J., IX, 134 (entry for Sept. 22, 1696).

<sup>20</sup> *Pennsylvania Archives*, 4th series: *Papers of the Governors*, I, 108. Under date of March 2, 1696/7, Narcissus Luttrell recorded in his diary that on that date Penn was accused before the committee of lords of “breaking the act of navigation in trading to Scotland, &c.” Luttrell, *A Brief Historical Relation of State Affairs*, IV, 190. See also B.T.J., X, 150-151, 177-178, 197-198, 268, 271-274. Penn thought such charges “grievous and offensive imputations” and, no doubt, these are some of those to which he referred in his letter of Sept. 5, 1697. Penn probably referred also to other evils in the province, since the code of laws adopted in 1700, after his return to Pennsylvania, represents notable alterations in the penalties for crime. These changes were in the direction of greater severity and would indicate that the mild code of 1682 had not sufficiently checked crime. See Gipson, “The Criminal Codes of Pennsylvania,” *Journal of the American Institute of Criminal Law and Criminology*, Vol. VI (1915), No. 3, pp. 323-344, or Gipson, “Crime and Its Punishment in Provincial Pennsylvania,” *Pennsylvania History*, Vol. II (1935), No. 1, pp. 3-16.

<sup>21</sup> B.T.J., XI, 303 (entry for Dec. 14, 1698).

<sup>22</sup> B.T.J., XI, 305-306 (entry for Dec. 19, 1698).

certain "hints" he had had "of a disagreeable clause in that law," and had disapproved the act passed in Pennsylvania against illegal trade, "though the rest of it be very useful and needful for the King's service." He asserted that this "law in itself . . . so darkly, and if I may say so, inconsistently worded," had even neglected to safeguard the principles of the Quakers, "that cannot swear," and had not adequately recognized the status of jury trials "in all cases relating to forbidden trade." He challenged Randolph's report about illicit commerce between Pennsylvania and Curaçao and Pennsylvania and Scotland. It was denied, he contended, by the assembly of Pennsylvania. Two witnesses, he asserted, could prove by the customs records that the charge of the Scotch trade was false.<sup>23</sup> The Privy Council, nevertheless, found it expedient to disallow the law passed by the assembly of Pennsylvania under the title of "An Act for Preventing Frauds and Regulating Abuses in Trade within this Government and Counties Annexed." The Council also disapproved Governor Markham as a deputy and insisted that Penn name another for that office.<sup>24</sup> The Founder's next step was his departure on the second voyage to America to take over in person the government of his province.

Soon after his arrival in Philadelphia on December 3, 1699, Penn set about vigorously to suppress the evils of illegal trade and piracy as matters of "the immediate concern."<sup>25</sup> Letters written at about the same time to other officials in America indicate his

<sup>23</sup> B T P, II, 649-651.

<sup>24</sup> B.T.J., XII, 156-157 (entry for Sept 1, 1699). In August, 1699, other accusations by Quarry had reached the Board about the looseness of the administration in Pennsylvania. The judge of the vice-admiralty court reported the arrival of pirates in the province, among whom was the famous Captain Kidd. As a result of these representations and others from Bass, the Board drew up a statement to the Council on the subject of "Pirates landed in West New Jersey and Pennsylvania." The Order of Council nullifying the act of the Pennsylvanian assembly and that disapproving Markham as lieutenant governor both bore the date of August 31, 1699. The Board on September 1 read another order of August 31, directing that persons seized for piracy "in the provinces of the Massachusetts Bay, New York, New Hampshire, Pennsylvania, and in East and West New Jersey, together with their money, goods, and other effects, and the evidences that are found against them" be sent to England for trial. On January 11, 1700, an Order of Council was issued requiring the sending to England of pirates held or seized in all the American plantations. See B T J, XII, 137, 142, 157, 355 (entries for Aug. 4, 9, 10, and Sept. 1, 1699, and Feb. 1, 1699/1700).

<sup>25</sup> Penn to Nicholson, Dec. 12, 1699, and Penn to the Governor of Barbados, Feb. 2, 1699/1700, Letter Book, 1699-1701, pp. 1 and 6.

concern that the cause of complaint against his province be removed. They show also his conviction that the complete destruction of illegal trade and piracy necessitated co-operation between the various provincial authorities.<sup>26</sup> Penn attended the first meeting of the council held in his province after his arrival from England on December 21, 1699. The record for this session is devoted entirely to the subject of illegal trade. The Founder reported the dissatisfaction of the home government with the alleged toleration of piracy and illicit commerce in Pennsylvania. He secured a resolution from the council that a proclamation should be issued against these crimes; that further expedients should be considered for their suppression; and that Colonel Quarry, judge of the vice-admiralty court, should be summoned to the meeting of the council on the following day to offer suggestions to the same end.<sup>27</sup> Penn called a special session of the assembly the next month to pass two acts "to reinforce and improve the laws already made against piracy and illegal trade."<sup>28</sup> He deemed the matter of such importance that he dedicated the meeting to the passage of these measures "and for no other end."<sup>29</sup> One month later he wrote with seeming complacency to the Governor of Barbados: "Our place very healthy now, and our general assembly sitting upon two only laws, one against piracy and the other against illegal trade. . . ." <sup>30</sup>

<sup>26</sup> Besides the letter to Nicholson cited above, Penn wrote on the same date to Major Donaldson and Captain Hollywell about certain suspected persons, "who fled from Burlington before my arrival under suspicion of piracy that carries home censure upon the justice of that place." He wrote under dates of Dec. 13 and Dec. 23, 1699, to Governor Blakiston of Maryland "I hope my carriage will convince my neighbors that we intend to be dutiful to the Crown, careful of its revenues and the good of mother country, and very friendly to our neighbor colonies." In the postscript he wrote, "I am doing my utmost to show my aversion to those villains [i.e. pirates] and their outrages. . . ." Letter Book, 1699-1701, pp. 2, 3.

<sup>27</sup> *Col. Rec.*, I, 565 (entry for Dec. 21, 1699).

<sup>28</sup> Jenkins, editor, *Pennsylvania Colonial and Federal*, I, 337, says that this assembly was called "to satisfy the British government."

<sup>29</sup> *Pennsylvania Archives*, 4th series: *Papers of the Governors*, I, 109, *Col. Rec.*, I, 572, 574 (entries for Jan. 1 and Jan. 5, 1699/1700). The record for the latter date reports the reading at that session of the council of a letter to Penn from the Lords Justices, bearing the date of July 25, 1699, "the substance whereof was particularly to require him to be very careful in causing the acts of trade and navigation to be duly put in execution within His Majesty's dominions under his government." Perhaps Penn believed that with respect to the enforcement of the laws of trade in Pennsylvania he had no freedom of action.

<sup>30</sup> Penn to the Governor of Barbados, Feb. 2, 1699/1700, Letter Book, 1699-1701, p. 6.

Some weeks afterward he reported to the Board of Trade what had been done since his arrival toward the suppression of piracy and illicit commerce, and he expressed the hope that the lords might "perceive the uprightness of our intentions, as well as inexpert clerkship. . . ." <sup>31</sup> He begged the Board also, in this letter, to consider "the great and destroying difficulty we labor under," namely, the inability of the Quakers to register their ships without oath. He likened this handicap to "the severity of making brick without straw or starve," since it "destroys trade and discourages shipping." <sup>32</sup> In April, 1700, he said of the laws enacted in the special session against piracy and forbidden trade that though they might not have "sat easy on the backs of some," they should clear the province of some of the "many calumnies and complaints we have been loaded with." <sup>33</sup> He wished to remove definitely all reason for the charges so persistently made against the proprietary government. This wish was perhaps the most important motive for his policy, and he succeeded so well in realizing it that he won an acknowledgment from his enemy, Colonel Quarry. <sup>34</sup>

Penn informed the Board of Trade under date of April 22, 1700, that the assembly had passed an act forbidding trade with Madagascar and Natal. He prefaced this statement, however, by a denial of all dealing with pirates in the Red and Arabian Seas "We never had a spot upon our garment, and we never traded with those suspicious places." He promised, in the same letter, to submit some

<sup>31</sup> Penn to the Board of Trade, Feb. 27, 1699/1700, B.T.P., V, 327, F 23, No 3. The letter is marked as received June 25, 1700, and read July 26, 1700. It might be noted that while Penn expressed concern as to his "care and duty to the King and Crown of England," he said nothing as to any duty which he might be thought to owe Parliament.

<sup>32</sup> *Ibid.* See also Penn to the Board of Trade, undated, Letter Book, 1699-1701, pp 11-12. This is the same letter as that indicated in note 31 above with some verbal changes

<sup>33</sup> Hist. Soc of Pa., *Memoirs*, Vol. II, Part II, pp. 188-189.

<sup>34</sup> See Quarry's letter from Philadelphia, March 6, 1699/1700, B.T.P., V, F 5, p 253. Said the Colonel "That Governor Penn is now arrived here, his coming hath made a very great change and alteration in all affairs of this government. He is so far from countenancing or justifying what hath been done in this government that he hath publicly shown his resentment and abhorrence of all He hath given ample assurance to all the King's officers of his favor and encouragement to them in all matters relating to the King's service, and to make restitution and satisfaction for all injury and abuses." Quarry proceeded to enumerate and describe certain particulars wherein Penn was effecting a most satisfactory reform in the Pennsylvania policy with respect to pirates and unlawful traders.

other suggestion with reference to the suppression of the evil, "for there is something more than hanging that must cure this deadly poison."<sup>85</sup> He submitted to the Board of Trade on December 8 of the same year some recommendations to increase the efficiency of the King's service in the suppression of illicit traders and pirates. One suggestion was that a reward be offered for information about pirates: "that some encouragement be given by the King to such persons as shall discover pirates or their goods; for as yet there has been none; the want of which may tempt covetous persons to conceal them, to the prejudice and loss of the public. . . ." <sup>86</sup> These recommendations had been concurred in, and perhaps partly suggested, by the other provincial governors who had attended the conference in New York in the autumn of 1700. On December 9 of the same year Penn wrote a letter to the Commissioners of the Customs, in which he admitted the truth of the charge that Pennsylvanians had traded illegally with the Dutch of Curaçao and besought some instructions as to how to check such practices.<sup>87</sup> The following months, however, he told the Board that with respect to "indirect trade, I cannot upon my best observation, find our people much blamable." He thought that there were still some in Pennsylvania who engaged at times in trade with Curaçao "under pretence of fetching money for provisions." The great unguarded stretches of coast made it impossible, in his opinion, to suppress this evil, for "the unplanted places for want of waiters, are the sanctuary of foul traders."<sup>88</sup> Inadequate governmental or naval service rather than the Pennsylvanians themselves must bear the responsibility for illicit trade. Yet almost seven months later, Penn told the Lords of the Admiralty that the "country improves, not by piracy or forbidden trade, but honest labor and sobriety" and he deplored the "officiousness" of those who had brought charges against the provincials.<sup>89</sup>

<sup>85</sup> Penn to the Board of Trade, April 22, 1700, Letter Book, 1699-1701, pp. 28-29.

<sup>86</sup> B.T.P., Vol. VI, Part I, G 4.

<sup>87</sup> Nead Papers.

<sup>88</sup> B.T.P., Vol. VI, Part I, G 12 (entry for March 6, 1701).

<sup>89</sup> B.T.P., Vol. VI, Part I, G 31 (entry for July 2, 1701). Penn had assured the Board of Trade earlier in the year that the growth of commerce in Pennsylvania had "not been owing to pirates and not a great deal, if any, to unlawful trade." Penn to the Board of Trade, March 6, 1700/1, B.T.P., Vol. VI, Part I, G 12.

Penn did not confine his efforts to eliminate violations of the acts of trade in the waters of the Delaware to mere recommendations. He arrested suspects and even sought to extort confessions from them. He reported to Secretary Vernon in March, 1700, that he had in custody two reputed pirates, from one of whom he was attempting to secure a confession and information which might be used to suppress the illegal trade with Madagascar.<sup>40</sup>

The proprietor was concerned with the disposition of the confiscated pirate treasure. He discussed with Vernon, in the report just referred to, the fees claimed from this treasure by Colonel Quarry, and he indicated plainly that he thought himself entitled to a share in the captured goods. This claim rested upon the ground that he, "as lord of the soil erected into a seigniory, must needs have a royalty and share herein." This right belonged to those whom he seems to have thought similarly placed, the lords of manors on the coasts of the British Isles. He considered it a hardship, in view of the benefit accruing to the Crown, that he was not allowed certain "casual profits and advantages." He buttressed his argument by asserting that the province had been at considerable expense to build a prison strong enough to confine these pirates. He hoped that the laws placed on the statute books against piracy and illegal trade might "pass for an essay of our zeal and care to suppress those evil practices we have been taxed with." Several months earlier he had reported seizures of pirates with considerable quantities of goods, and Colonel Quarry had then expressed the opinion that they should be divided among himself, Penn, and the informer upon whose word the pirates had been captured. Penn, however, had desired to await the royal instructions on the subject. The restored proprietor had not refrained from remarking in this letter that the pirates he had taken were "all, or some of those pirates that Governor Fletcher thought fit to protect or permit to live in this government when he had the administration of it," and, therefore, that it "is thought hard" that they should "be proceeded against for their lives. . . ." <sup>41</sup> He had called upon the council in Pennsylvania earlier in the same year for their

<sup>40</sup> Penn to Vernon, March 10, 1700, Letter Book, 1699-1701, pp. 7-10. See also Penn to Bellomont, Feb. 27, 1700, Letter Book, 1699-1701, p. 13.

<sup>41</sup> Penn to Vernon, Dec. 14, 1700, Letter Book, 1699-1701, pp. 53-54.

advice about the correspondence which had been discovered between the colonists and pirates.<sup>42</sup>

Penn thought at times that his zeal had worked to his disadvantage. He expressed concern to Lord Somers lest his friends be disappointed by his conduct, for he thought that his policy in supporting the acts of trade had displeased the people of the Lower Counties. They were raisers of tobacco and they opposed "all considerations" that concerned his supply. "I have angered our tobacconists," he wrote to Harley, "for which cause they were very barren towards me in the general assembly, but time will wear that off, I hope." He thought he had displeased the people of the upper counties by "turning out" David Lloyd, who had offended the vice-admiralty officials in "ignorantly granting a replevin of goods seized by the marshal of the admiralty."<sup>43</sup>

At the close of 1700, however, Penn was able to report to the Board that as "for pirates, we have none since the sending of those of Kidd's crew, unless you will let me call them so that I mentioned to you in my last, that wants your answers. . . ." The remaining problems seem to have been chiefly those of disposing of the confiscated pirate treasure and arranging for the trial of the freebooters already in custody. Penn took advantage of this opportunity to recommend that Colonel Quarry be given a fixed salary, since otherwise his activities as agent of a trading company necessitated his absence from official duties nearly eight months of the twelve. He suggested also that "some bold and judicious attorney" might with profit to the Crown be sent to advise the vice-admiralty court in Pennsylvania.<sup>44</sup> Under date of July 2, 1701, he wrote the Board on the subject of pirates: "We have not been molested with any more of those people, though, I hear we are threatened by them in other parts, for our strictness to them here."<sup>45</sup>

Penn contrasted with evident satisfaction in August, 1701, the enforcement of the acts of trade under the proprietary government

<sup>42</sup> *Col. Rec.*, I, 579 (entry for April 12, 1700).

<sup>43</sup> Penn to Somers, Oct. 22, 1700, Letter Book, 1699-1701, p. 68; Penn to Harley, circa 1701, Hist. MSS Com., 15th Report, App., Part IV, *Portland MSS*, p. 31.

<sup>44</sup> Penn to the Board of Trade, Dec. 8 and 13, 1700, B.T.P., Vol. VI, Part I, G 4; letter of the Earl of Bellomont, B.T.J., XIII, 105, 107, 108, 109 (entry for July 4, 1700).

<sup>45</sup> B.T.P., Vol. VI, Part I, G 31.

with that under Fletcher's royal government. He intimated without specifying particulars that conditions in his province were less deplorable than were similar evils elsewhere. "Some faults doubtless must have been committed in an infant colony in the space of eighteen years," he wrote, "but this is my comfort, the greatest of them are owing to the administration of a King's government when mine was superseded; yet even those were but motes in comparison to the beams in some others that you seem to prefer. . . ." <sup>46</sup>

Quary, meanwhile, had submitted new complaints. He reported to the Board that Penn had wrongfully appointed water bailiffs, who had acted illegally. Penn retorted vigorously. Such procedure on his part to aid in the enforcement of law, said he, would not have been necessary had Quary, "that active officer of the King's, been in his post or in the province at any time for seven months together." The proprietor turned the tables upon his accuser with reference to the charges of trading with Curaçao. He charged the latter with failure to act upon due knowledge of one of the two ships engaged in this illegal trade, except "to dress up his information to you on which your report, I suppose, is grounded," for "here the profit was like to be small, and there was a higher end to be served, viz.: by blackening of us to lay a foundation for greater advantages to themselves, as appears by Colonel Quary being now made surveyor of this river on both sides with power to put in and turn out all officers concerned in the customs, himself being all the while one of the greatest traders in these parts. . . ." <sup>47</sup> Penn concluded this communication with an attack upon "persons gaping for preferments under the specious pretence of serving the King's interest," who were "countenanced and encouraged, and all their representations without further inquiry credited and made a bottom for the ruin of the rather meritorious than culpable." He commented bitterly that the favor accorded the charges of those persons, "while my endeavors equal in sin-

<sup>46</sup> B.T.P., Vol. VI, Part I, G 39 Penn's letter was written from Philadelphia under date of Aug. 26, 1701. On Jan 27, 1700/1, a letter with enclosures from Quary on this subject, dated Nov. 14, 1700, had been read before the Board of Trade.

<sup>47</sup> B.T.P., Vol. VI, Part I, G 39.



cerity and application, I dare be bold to say, to those of any of the King's immediate governments, and this without one farthing allowed by the Crown, are made my guilt and crime, looks as if all the old known rules of justice were to be read backward."<sup>48</sup>

Penn's personal record in the enforcement of the acts of trade was clear. Though he was well aware that the strict execution of these laws on his part was good politics, he believed generally in the policy which they represented. He endeavored to carry them out during his personal administration in Pennsylvania. Urgent letters to his deputies later leave no doubt that in his absence he intended them strictly to enforce the laws.<sup>49</sup> His rancor toward the judge of the vice-admiralty court and other English officials seems to have developed rather from his disapproval of their methods of enforcement than from any opposition in principle to the general policy itself.

A by-product of the efforts of the Crown and of the proprietary government to suppress piracy and illegal trading in the waters of the Delaware was the conflict in jurisdiction between the vice-admiralty courts and the local or county courts in the province. The movement to supplement or supplant the provincial machinery for enforcement of the acts of trade in various American plantations came to fruition in November and December, 1696. At that time vice-admiralty courts were set up in Rhode Island, Connecticut, East and West New Jersey, Pennsylvania, Carolina, and the Bahamas. Penn, Winthrop, Docwray, and other proprietors opposed the movement on the ground that "the doing of it would be an infringement of the privileges granted to them by their

<sup>48</sup> *Ibid* In the course of this letter Penn complained "That my bleeding expenses for twenty years past in raising a flourishing colony profitable to England by the consumption of her commodities as well as other ways and that only by my private interest in which my whole estate that I could have lived much more comfortably on at home is irrecoverably plunged should be rewarded with the infamous brands of illegal practices in the highest and when I might reasonably expect to be reimbursed, must be cut out of the means, seems to carry an injustice with it, that in smaller matters would be otherwise treated."

<sup>49</sup> As late as 1703 Penn instructed his deputy Evans strictly "to observe the laws relating to trade and the plantations and to give the Queen's officers all due encouragement therein and discontinue every appearance of unlawful trade and that without the least respect to persons or parties." Penn to Evans, Aug. 9, 1703, Penn MSS—Granville Penn Book, p. 7.

several charters. . . ." <sup>50</sup> Notwithstanding objections, the courts were set up, and soon conflicts of jurisdiction appeared. Penn thought that the difficulty might be adjusted if skilled and capable lawyers were sent to the province from England to "advise in the proceedings of the admiralty court here, since the gentlemen concerned freely acknowledge their unacquaintance in the civil law with the practice of that court. It would be a means to preserve a fair understanding between the civil and maritime courts which cannot else well be done. . . ." He reported that he and Colonel Quarry had agreed to join in requesting advice from the home government <sup>51</sup>

Penn's chief objections to the vice-admiralty courts were three in number. He argued, in the first place, that these tribunals extended their jurisdiction unreasonably and thus infringed upon the powers of the local common law courts. The people of the province, he informed the Lords of Trade, considered themselves "injured in their reputations, and unsafe in their interest, the [undecipherable] common law being overruled by the admiralty." <sup>52</sup> The vice-admiralty court, wrote Penn, "observes no such thing as corpus comitatus, but will bring into their courts, which (they say) are four times more chargeable and costly than at common law, but also will have every private cause or action that relates to the water in our rivers and rivulets, and any vessel for wages, bread, beer, smith work, carpenter's work, etc., tried there. . . ." <sup>53</sup> He complained to the Lords of the Admiralty that ". . . it cannot be conceived that the courts of admiralty erected in these plantations chiefly for trial of offences against the acts of trade and piracy were ever designed to extend so far as that nothing should be done afoot of the shore in any creek or river but by its powers and that all actions of bakers, butchers, and victualers, smiths, cord-wainers, etc., suing for provisions furnished to or work done for vessels, and such-like private and civil cases should be tried in the admiralty . . . a thing extremely dissatisfactory to the King's subjects here in

<sup>50</sup> B.T.J., IX, 241, 260-261, 263, 274-275, 285, 287 (entries for Nov. 20, Dec. 4, Dec. 7, Dec. 11, Dec. 16, and Dec. 17, 1696) The quotation in the text is from the entry for December 11.

<sup>51</sup> Penn to the Board of Trade, Dec. 13, 1700, Letter Book, 1699-1701, pp. 51-52.

<sup>52</sup> Letter Book, 1699-1701, p. 27.

<sup>53</sup> Penn to the Board of Trade, April 22, 1700, Letter Book, 1699-1701, pp. 28-29.

general . . ." <sup>54</sup> The next year he reiterated this complaint in a letter to Harley. He charged that "the court of admiralty . . . pretends not only to try causes that relate to the King's revenue as to unlawful trade or piracy, but whatever is done in the river or creeks other ways . . . so that they have swallowed up a great part of the government here, because our commerce, by reason of the nature of our settlements, is so much upon the river and small creeks of it. . . ." <sup>55</sup> The question of jurisdiction raised in these complaints was eventually referred to the advocate general and the attorney general in England. <sup>56</sup>

A second objection Penn found in the personnel of the courts. He accused the officers of the Crown of greed and of injustice. He thought there was a reason for the greed, since no salary had been fixed for the judge of the vice-admiralty court, or for the advocate. These "gentlemen of no visible fortune and the last a large family," as Penn described the two individuals who held these positions, must needs depend upon fees for their income; they would naturally, therefore, "stretch their power to augment their gains." <sup>57</sup> A consequence of this condition was the inequitable administration of the laws: "the rich find ways of coming off easily, the poor they [the King's officers] practise their duty upon to the life, that by over-acting their parts, unreasonably as well as unjustly, they may recommend their zeal as meritorious to the Commissioners of the Customs. . . ." <sup>58</sup> It will be recalled that on one occasion Penn recommended a salary for Colonel Quarry, who was neglecting his public business—so the proprietor insinuated—to attend to more profitable private affairs.

The third, and greatest, objection was the possibility of trial by the new courts without jury. This abuse was an old and familiar one to Penn, and he now opposed it as vigorously as he had fought it earlier in his stormy career. He argued that the law setting up the vice-admiralty jurisdiction was "weakly penned" and charac-

<sup>54</sup> Penn to the Lords of the Admiralty, Dec. 10, 1700, B.T.P., VI, G 40.

<sup>55</sup> Penn to Harley, 1701, Hist. MSS Com., *15th Report*, App., Part IV, *Portland MSS*, p. 31.

<sup>56</sup> B.T.J., XV, 131-133 (entry for July 13, 1702).

<sup>57</sup> Penn to the Board of Trade, April 22, 1700, Letter Book, 1699-1701, pp. 28-29.

<sup>58</sup> Penn to Harley, 1701, Hist. MSS Com., *15th Report*, App., Part IV, *Portland MSS*, p. 30.

terized by "obscurity if not inconsistency." He insisted that "if it [the law] means anything, it must be this: either that in the court of admiralty, where there is no jury, there the jury shall be natives of England, Ireland or the plantations; or that all causes to be tried in the plantations by the court of admiralty shall be by a jury so qualified. . . ." He declared that "the subjects of England" expected "common law here [in Pennsylvania], and that the laws which limit the admiralty powers there [in England] should here, and not that the Admiral should be above the King, the civil above the common law, or the Doctors Commons preferred to Westminster Hall" He told Harley that "determining these causes without a jury gives our people the greatest discontent, looking upon themselves as less free here than at home, instead of greater privileges, which were promised."<sup>59</sup> In this controversy, as in so many similar ones earlier, Penn relied upon the theory that Englishmen possessed inviolable rights, guaranteed to them by the political and institutional history of England. The historic English right of trial by jury was being violated by the procedure of the vice-admiralty courts.

Penn was pleased with the ruling that pirates captured in the provinces were to be returned to England for trial. He rejoiced that such people were to be sent out of the colonies, "that we may lie under less blame and difficulty in such cases. For though they are some of the worst of human race, life is a tender thing, and I can't forbear thinking that America is not yet furnished with the skill requisite in the civil law to be exact and safe in proceedings of so high a nature. . . ."<sup>60</sup> The Founder lost no opportunity in his letters to compare the handling of pirates in his province with the enforcement of the law elsewhere. He wrote, for example, to the governor of New York that he was reluctant to conduct the captured pirates from Pennsylvania on the way to New York "further than Burlington," for Jersey was in another government and in Maryland there had lately been robberies committed. He could not, therefore, "answer for the event."<sup>61</sup> He was displeased with the policy adopted for the disposal of the pirates' treasures. It

<sup>59</sup> *Ibid.*, p. 31.

<sup>60</sup> Penn to Bellomont, Feb. 27, 1700/1, Letter Book, 1699-1701, p. 13.

<sup>61</sup> Penn to Nanfan, March 1, 1700, Letter Book, 1699-1701, p. 17.

was "hard," he thought that the King had called not only for the pirates but also for their booty. "I fear," he wrote, "it will blunt the edge of the people in detecting and apprehending them. . . ." <sup>62</sup> He complained to Bellomont that the Pennsylvanians had been "at great charge to build strong prisons, with high brick walls, grates, bolts, chains, etc , and one to watch and ward as well as to take them; and here is no power to call on the King's officers, to deduct out of his revenue any satisfaction." <sup>63</sup>

Penn's letters to the Board of Trade and to influential individuals in England often present arguments drawn from the contemporary mercantilist economics. They show also, however, that he was not in complete accord with English commercial policies. The conference of the governors at New York in 1700 considered some matters relating to imperial and intercolonial trade, and several of the recommendations drawn up by the participants for submission to the English authorities dealt with such items. Penn's part in the formulation of this program has been discussed earlier. It has been shown that, if he did not actually initiate the several recommendations to the home government, he at least agreed with them. The first point in his program, as reported by Penn to the Lords of Trade, was the establishment of a single standard of value for colonial money with the creation of a mint at New York. These reforms were urged "to prevent confusion and difficulty" and to "help trade much and travelers." From the point of view of the English authorities, Penn's championship of a colonial mint obviously would not stamp him as a mercantilist. The second recommendation asked "that encouragement were given to timber here [i.e., in America] for all rates of ships that so English timber might be preserved and freight not eat out the profit," a proposal sound enough according to the orthodox mercantilist doctrine. The ninth proposal in Penn's list dealt with the administration of the Woollens Act of 1699. Penn protested that this law was "a severe, and which is worse, an impracticable thing in these parts. . . ." He pointed out that the American diversification of agriculture and the poverty of the inhabitants prevented them from buying English cloth and forced

<sup>62</sup> Penn to Codrington, March 5, 1700, Letter Book, 1699-1701, p. 18.

<sup>63</sup> Penn to Bellomont, Feb. 27, 1700/1, Letter Book, 1699-1701, p. 13.

them to "have their neighbor's wool to spin for their backs or starve in winter." He said that to evade the law they bought sheep unsheared and sold them again shorn, perhaps to those from whom they had purchased them, upon an understanding previously arranged.<sup>64</sup> The protest of the governors had no effect. In 1705 Penn and Logan were exchanging letters about the disadvantages of the act. The proprietor declared at this time his intention to "lay the mischief of it to America before the Council of Trade and use my utmost endeavors to have it amended this next parliament."<sup>65</sup>

As the owner of Irish lands, Penn objected also to the operation of the duty on Irish wool exported to England. He urged the Lords Justices of Ireland in 1698 that the tax "may be turned from that to the manufactory here [i.e., in Ireland], and so much more as may bring the woolen trade of both kingdoms upon a balance abroad. . . ." He went on to suggest that the English "be moved to take off the prohibition of fat sheep being imported" into their country. The consequence of these changes in tariff policy would be, he said, that the English would get both Irish wool and Irish mutton at a cheaper rate, and that Irish woolen manufacturers could not undersell the English abroad. England would absorb greater quantities of Irish sheep. Irish manufacturers would confine themselves to the making of coarse cloth, while sheep raisers would profit by the larger market and increased demand for Irish sheep. Penn advocated at the same time that "great precautions should be taken to advance the linen trade of this kingdom, for fear of the worst, for this emulation being started, it gives a just apprehension to this country to be upon their guard in trade, and to have two strings to their bow."<sup>66</sup> Thus, Penn believed that the Irish manufacture of woolen goods should by taxation be limited to the coarser stuffs, but that Irish manufacturers of linen goods should be encouraged.

Penn thought that English restrictions upon Irish production

<sup>64</sup> Penn to the Board of Trade, Dec 8, 1700, Letter Book, 1699-1701, pp. 47-51; B.T.P., Vol. VI, Part I, G 4

<sup>65</sup> Logan to Penn, April 5, 1705, *Penn and Logan Correspondence*, II, 5-6, and Penn's reply, Sept. 14, 1705, Penn MSS—Penn Family to Logan, I, 25.

<sup>66</sup> Penn to the Lords Justices of Ireland, July 1, 1698, Penn-Forbes Collection, I, 52.

were misguided in other particulars. He went on to state that England derived substantial profits annually from Ireland in the form of rents from Irish lands, and in the staples, necessities, and luxuries purchased in England by Irishmen. The Irish, therefore, had it in their power to exert no little economic pressure upon their neighbor, "should Ireland be spiteful and ill natured," by laying a heavy tax upon the estates owned by absentee English landlords, by wearing only clothing of Irish production and buying their luxuries from Holland, by prohibiting the Irish youth from going to England for their education, and finally by "shifting as to what we may at large call requisites. . . ." Penn did not express himself with regard to the reciprocal effects upon Ireland of the adoption of such policies. An economic war between the two countries might have had evil effects for both.

This interesting letter reveals noteworthy inconsistencies in Penn's philosophy. He seemed at times to believe, with Jefferson, in as little government as possible; on other occasions and for other purposes he recognized the advantages of what has since been called a "planned economy." Usually loyal to the trade laws of England, he could wish them supplanted by ordinances enacted under the same general theory of governmental control when such new enactments seemed more favorable to him or to those in whose interest he was writing; but he believed that a wise government would encourage the diversification of products as a protection against the trade wars consequent upon international commercial rivalry. He was familiar with the way in which economic wars were waged. He saw that the makers of tariffs were frequently shortsighted men and that the taxation of trade sometimes failed notably to accomplish the purposes alleged in justification of the taxes. "Those gentlemen, in my opinion," said he, "caught a Tartar, that fell upon the Irish trade, for they did not see to the length of their own proposition since it is most demonstrable that England is the great gainer instead of being a great loser by Ireland." This reasoning sounds like the traditional agrarian argument for free trade. For the moment, Penn, the paternalist and mercantilist, seems to have turned to *laissez faire*.

The Founder appreciated some of the advantages for Pennsylvania of a "planned economy," for he attempted to make the

Quaker province as self-sufficient as possible. It will be remembered that the council proposed in 1701 to prevent the exportation of coin to Jersey in payment for cattle imported for the use of Philadelphians.<sup>87</sup> This plan was intended to destroy the debilitating trade by obliging the owner of forty acres of "clear land" in Pennsylvania and Delaware to keep at least ten sheep. The council also proposed to limit the slaughter of cattle owned by inhabitants of the province, both as to quantity and as to the months of the year during which such slaughter should be lawful. An earlier act in Pennsylvania discriminated against foreign West Indian shippers by a customs differential on rum, by which the shipowners of Pennsylvania were favored at the expense of non-resident shipowners. The governor and council sought in the legislation of 1701 to remedy this handicap upon the foreign shippers, by repealing the discriminatory law and enacting simply a flat rate on rum to be retailed in quantities of less than ten gallons.<sup>88</sup>

When he urged the Board of Trade to permit shipowners to register without taking oaths, Penn spoke not only as a Quaker but as an economist. He besought the members of the Board to urge, privately and unofficially, upon members of Parliament the amendment of this legislation. The industry of shipbuilding in Pennsylvania was seriously checked because the Quakers could not register their ships. Water-borne transportation of Pennsylvania products fell to the people of other colonies, and foreign goods could not be imported in ships of Pennsylvania registry. The result was that otherwise "we must trust very ordinary persons, or quit trade, any of them being a prejudice that those of our persuasion at home are freed from."<sup>89</sup> Shipping might not be among "God's trades," but it was an essential to the prosperity of the colony and an occupation of which the Quakers ought not be deprived.

Penn wished to secure diversification of products not only for Ireland but for Pennsylvania. He wrote to the Board of Trade in 1701 that "there is much to do to improve . . . the capacity of these

<sup>87</sup> *Col. Rec.*, II, 27 (entry for Aug. 1, 1701).

<sup>88</sup> *Ibid.*

<sup>89</sup> Penn to the Board of Trade, March 6, 1701, B.T.P., Vol. VI, Part I, G 12.



parts of the world "to trade," and he indicated that the council as well as the governor had been considering the development of other sources of wealth than the growing of tobacco and the commerce in furs and skins. He wrote on July 2, 1701, to the Lords of Trade that the authorities in Pennsylvania were hoping to develop the production of rice, whale oil and bone, and cod-fishing to supplement that of tobacco, furs, and skins.<sup>70</sup>

Penn thought taxation in Pennsylvania primarily designed to raise money for the support of the local government. In 1701, he declared himself to be willing, upon petition from the assembly, to have removed "the several clogs and burdens upon trade, to wit: the tonnage of ships, the duties on liquors, etc. . . . in case they would give an equivalent."<sup>71</sup> It would seem accurate to say that while Penn supported English mercantilism as enacted into law, he differed with it at several important points. In the case of tariffs for the control of production he was in frequent disagreement with the home government. Penn did advocate a luxury tax intended theoretically to check extravagance, or to force the lovers of luxury to support the government.

At times, Penn contemplated his province with much satisfaction as a contributor to the wealth and power of the English empire. He boasted of the revenue which the province had yielded to the Crown, when at the close of the reign of William III renewed efforts were made to vacate the proprietary charters. Sometimes he compared exultantly the returns to England from Pennsylvania and those from the neighboring plantations. He assured the Board of Trade in 1700, in his protest against the operation of the Woollens Act of 1699, that his colony was "the least concerned of any colony in the affair" because the Pennsylvanians used English clothing rather than that of their own growth or manufacture.<sup>72</sup> It was becoming necessary, however, he said, to use tobacco as the medium of exchange because the purchase of English goods drew the specie out of the colony to England. He asserted in 1700 that the shipments of tobacco to

<sup>70</sup> B.T.P., Vol. VI, Part I, G 31.

<sup>71</sup> *Col. Rec.*, II, 53 (entry for Oct. 23, 1701).

<sup>72</sup> Penn to the Board of Trade, Dec. 8, 1700, B.T.P., Vol. VI, Part I, G 4, and Letter Book, 1699-1701, p. 50.

England would in a year increase from fifteen hundred to three or four thousand hogsheads. Certain of the Pennsylvania planters, moreover, had now decided to ship their tobacco to England to "pay the merchant," and to use their provisions for exportation to the West Indies as a medium for trade with that region. He rejoiced in 1702 at the great increase of the customs receipts in Pennsylvania, which then compared favorably with the income from the other continental colonies.

Penn believed in that buttress of economic nationalism, the patriotic argument that home industry only be patronized. While the province was under the government of Fletcher in 1694, the Pennsylvanians petitioned William Markham, the lieutenant governor, to prevent French merchants from trading with the Indians in remote corners of the province.<sup>73</sup> To the end that such commerce be prohibited, it was suggested that all traders be licensed. The rigor of the law was invoked now and then in Pennsylvania against interlopers, residents of other colonies presuming to trade there.<sup>74</sup> Calling the attention of the council in 1701 to John Hans Steelman, said to inhabit Maryland, who had been trading without license among the Indians, Penn stated that he, therefore, as governor, had seized certain of this person's goods. Steelman, however, was fortunate, for Penn seemed to think that he did not reside out of the province and that his father was a resident of Pennsylvania.<sup>75</sup> The Indian trade will be discussed in another connection, and it is sufficient to say here that such trade was to be carried on "under such rules as are and shall be concluded on by the government for its reputation and safety, and for the public benefit." The limitations set upon the sale of liquor to the Indians, which will be discussed later, are significant illustrations of Penn's frequent recourse to the theory of a controlled trade, managed by the government presumably in the interests of morality and the general welfare.

Though Penn inveighed, on occasion, like a modern Isaiah, against those merchants and traders "whose God is gold and gain,"

<sup>73</sup> Petition of Jan 6, 1693/4, to Markham, American Philosophical Society MS Penn Letters and Ancient Documents, III, 16.

<sup>74</sup> *Col. Rec.*, II, 21-22 (entry for May 31, 1701).

<sup>75</sup> *Ibid.*

he did not place all those who bought and sold in that accursed class. He was himself a trader. He decried dealers "that neither buy nor sell with regard to His [God's] just principle in your consciences, that use vain and deceitful words, and that are not come to the just measure and the righteous balance, but use frauds for advantage."<sup>76</sup> He saw no evil, however, in taking advantage of the exigencies of world politics to profit by a rising market. He urged Logan on the eve of Queen Anne's War to send supplies, since his creditors were bedevilling him, "thinking [as he said] I have brought over all the world with me." He asked for deer skins, bear skins, and tobacco, for "war is likely and goods bear a price."<sup>77</sup> He wrote a year later to his secretary hoping that the Pennsylvanians would "in lieu of other maintenance, confine the Indian trade to me, which were nothing out of their pockets." He felt that if this trade were his monopoly for seven or perhaps eleven years, he could pay off his debts.<sup>78</sup> He saw the opportunity in 1703 to make profits from commerce with the West Indies, and wrote Logan to that effect.<sup>79</sup> After the relaxation of the British trade laws during the war, he planned to open trade with the Spanish West Indies and directed his friends to undertake that. "I am assured," he wrote, "of an open trade with the Spaniard as much as ever in the West Indies, if not already opened; not that risks are not run as before the war, but that there shall be none on our parts from ourselves. . . ." <sup>80</sup> This dream of a lucrative trade with the foreign islands was still unrealized in 1706, but Penn wrote optimistically that he hoped for the opening of the Spanish trade which would furnish money for Pennsylvania.<sup>81</sup> His theories about trade were obviously the product of a more than academic interest in the subject.

It has already been shown that Penn refused in 1681 to grant one trading monopoly,<sup>82</sup> but that he did concede a charter of most

<sup>76</sup> "Summons, or Call to Christendom," *Works*, I, 194.

<sup>77</sup> Penn to Logan, Feb. 3, 1701/2, Logan Papers, I, 38.

<sup>78</sup> Penn to Logan, Feb. 20, 1702/3, *Penn and Logan Correspondence*, I, 164.

<sup>79</sup> Penn to Logan, April 1, 1703, *Penn and Logan Correspondence*, I, p. 182.

<sup>80</sup> Penn to Logan, July 11, 1704, Logan Papers, I, 50.

<sup>81</sup> Penn to Logan, Feb. 7, 1705/6, Penn MSS—Penn Family to Logan, I, 29.

<sup>82</sup> See the remarks on this point in Hull, *William Penn: A Topical Biography*, p. 223.

extraordinary privileges to the Free Society of Traders. This document, dated March 25, 1682, granted to the Society a "barony" of twenty thousand acres to be erected into the manor of Frank. The Traders, whose object was the exploitation of the mines, forests, and furs of their manor, were awarded large powers of monopoly, exemptions, and sovereignty.<sup>83</sup> Other grants were made by Penn acting in his capacity of feudal lord.<sup>84</sup> His theory in granting the unusual right to the Traders was outlined in a preface to the "address and constitution" of that society. He discussed in this document the practical benefits of "honest and industrious traffic." He presented a point of view on monopoly which had something in common with the theories underlying the National Industrial Recovery Act of 1933. Monopoly he rather praised than condemned. "This union of traffic," he said, "prevents emulation, for every one is interested in every one's prosperity, and the profit must be greater and surer, and navigation, manufacture, and arts better improved, than by force of private and divided stocks."<sup>85</sup> Like the orthodox mercantilist, Penn found monopoly advantageous, but he placed his justification upon more general and altruistic grounds than those chosen by the usual defender of the monopolistic economy.

It may be concluded that Penn believed on the whole in the mercantilism of his day; generally, he approved and supported loyally the English system of regulating trade in the interest of the mother country. He also believed in locally self-sufficient units within the empire, and he sought to create a province that would be economically independent. He saw advantages in monopoly not only to private participants in the business but also to the general public. He believed in the theory that by legislation the government might create favorable conditions for trade; but he disapproved of at least one important law directed to that end, the Woollens Act of 1699. He thought it advisable to limit or even to destroy local industry in the interest of the larger unit. He

<sup>83</sup> Hazard, *Annals of Pennsylvania*, pp. 541-550.

<sup>84</sup> Keith, *Chronicles of Pennsylvania*, I, 74-75. For maps of certain proprietary manors, established in Penn's lifetime, see Egle, editor, "Draughts of the Proprietary Manors in the Province of Pennsylvania," *Pennsylvania Archives*, 3d series, Vol. IV, Nos. 11, 65, 70.

<sup>85</sup> Hazard, *Annals of Pennsylvania*, p. 551.

recognized the frequent shortsightedness of tariffs, and he was able to construct an argument that might have pleased a free-trader. He was willing to eliminate a tariff chiefly for revenue if the "supply" could be furnished to government in another way. He believed in a self-sufficient state, and therefore in diversified production. Like Thomas Mun, he did not believe that the exportation of the national treasure in the form of money was necessarily an evil, and, again like Mun, he thought that the material wealth of a country lay largely in trade. Unlike Mun or the contemporary mercantilist, he said on one occasion with regard to trade and wealth that the noblest governments in history "had little of either."

Generally a mercantilist in his theories of foreign trade, Penn was a paternalist in his attitude toward domestic industry. If he believed in the theory that that government is best which governs least, as he indicated in his famous preface to the First Frame, he reserved that theory for government in its purely political activities. He illustrated this paternalist policy a few months after he received the Charter for Pennsylvania in the Conditions and Concessions of July 11, 1681. There is set forth a series of regulations which show clearly that in his opinion government, economically considered, had other than merely police functions in their narrowest sense. These provisions, for example, required buying and selling in public markets, where all goods "to be exported" could "pass the public stamp or mark." Punishment was decreed for those who offered for sale "bad ware, and prized as good, or deceitful in proportion or weight." Owners of livestock were required to mark and brand their sheep or cattle within three months after they acquired these animals, under penalty of forfeiting them to the governor. The reason given for this provision was "so people may be compelled to avoid the occasion of much strife between planters," a significant commentary on Penn's views of the functions of government. He ordered in the next article that "in clearing the ground, care be taken to leave one acre of trees for every five cleared, especially to preserve oak and mulberries, for silk and shipping." Shipmasters were required to register "their countries, names, ships, owners, freights, and passengers. . . ." Finally, no person was to leave the

province without having published three weeks in advance his intention of so doing; this publication was to be made in the market place; and he was to have a certificate "from some justice of the peace of his clearness with his neighbors, and those he has dealt withal. . . ." As has been shown elsewhere, Penn believed in protecting the lending classes.

Landholding and agriculture under Penn's paternalistic regime, were subject to regulation quite as definitely as were industry and commerce. The Conditions and Concessions of 1681 required that in order to hold title to his land, a man must "plant or man so much of his share of land as shall be set out and surveyed, within three years after it is so set out and surveyed."<sup>86</sup> A paternalistic spirit animated the council. That body drew up on March 16, 1683, bills "for planting flax and hemp," and "to have cattle marked and to erect bounds," and concerning "burning woods and marshes."<sup>87</sup> Five days later the council designated a committee to propose a bill requiring "hogs to be ringed."<sup>88</sup> The following month a bill was under consideration relating to the "cleaning of corn."<sup>89</sup> It was recommended in 1683 by a committee of the council appointed by Penn that a law be enacted to regulate the importation and exportation of horses.<sup>90</sup> An act was passed the next year to govern the sowing of barley.<sup>91</sup> The assembly inquired of the council some six weeks later whether or not they were free to disallow certain of the existing laws, one of these being "the law for not killing cow calves and ewe lambs."<sup>92</sup> It has been pointed out elsewhere, that in order to minimize the drainage of coin from Pennsylvania to pay for cattle imported from New Jersey, the council resolved in 1701 that every person in the province and territories who had forty acres of clear land should keep sheep.<sup>93</sup> Penn believed also in legislation, both provincial and imperial, to encourage trade. The council in 1684, for example, proposed a law to stimulate the production of linen

<sup>86</sup> *Ibid.*, pp. 518-520, Arts x, xi, xvii, xviii, xix, and xx

<sup>87</sup> *Col. Rec.*, I, 61.

<sup>88</sup> *Ibid.*, p. 65.

<sup>89</sup> *Ibid.*, p. 71 (entry for April 2, 1683).

<sup>90</sup> *Ibid.*, p. 80 (entry for Sept. 8, 1683).

<sup>91</sup> *Ibid.*, p. 102 (entry for April 1, 1684).

<sup>92</sup> *Ibid.*, pp. 109-110 (entry for May 17, 1684).

<sup>93</sup> *Ibid.*, II, 27 (entry for Aug. 1, 1701).

cloth and to provide that there be "two sorts of clothes only, for winter and summer wear."<sup>94</sup> He hoped his friends would take notice of the recent act of Parliament to develop the production of naval stores; "as far as flax and hemp go; for pitch and tar you have not the means of in our country. But I wish extremely well to potashes and that it may be encouraged, as I hinted once before."<sup>95</sup>

Penn found it necessary to regulate closely the fur trade, partly to guard his own interests and partly to protect the Indians from exploitation at the hands of white traders. The question as to "whether skins should be prohibited" was raised in the provincial council early in his first visit to America.<sup>96</sup> The exportation of deer skins was considered by that body in 1684; and on April 1 of that year the councilors unanimously passed a bill that such skins were "not to be exported till first put to sale."<sup>97</sup> One of the articles of agreement signed by Penn on April 23, 1701 with certain Indian chiefs bound the latter to permit no trading or disposing "of any of their skins, peltry or furs, or any other effects of their hunting to any person or persons whatsoever out of the said province nor to any other person but such as shall be authorized to trade with them as aforesaid. . . ." He agreed, in return, that he would "not suffer or permit any person to trade or commerce with any of the said Indians but such as shall be first allowed and approved of by an instrument under the hand and seal of him the said William Penn. . . ." <sup>98</sup> He also looked upon the fur trade as a source of profit to himself and sought to secure as large a share in that lucrative business as possible. He thought of this fur trade in the midst of his financial difficulties, following his second return to England. He wrote Logan in 1703: "But oh that we had a fur trade instead of a tobacco one, and that thou wouldst do all that is possible to master furs and skins for me, but beaver more especially. . . ." <sup>99</sup>

<sup>94</sup> *Ibid.*, I, 93 (entry for Jan. 17, 1683/4).

<sup>95</sup> Penn to Logan, April 30, 1705, *Penn and Logan Correspondence*, II, 15.

<sup>96</sup> *Col. Rec.*, I, 72 (entry for April 2, 1683).

<sup>97</sup> *Ibid.*, pp. 100, 102 (entries for March 31 and April 1, 1684).

<sup>98</sup> Logan Papers, XI, Indian Affairs, p. 3.

<sup>99</sup> Penn to Logan, Feb. 24, 1702/3, Penn MSS—Penn Family to Logan, I, 55, printed in the *Penn and Logan Correspondence*, I, 166-171. The printed version gives "bears" in the place of "beaver," but the MS seems to read "bever" instead.

The tobacco trade gave Penn much concern during the last decade of his active life. The people of the Lower Counties were the only tobacco raisers in his territories, and tobacco was the only enumerated commodity. It was these Lower Counties, said Penn, that Quarry had "seduced from their duty"; therefore, it would be the Lower Counties that would give trouble in the enforcement of the laws of trade. The provincials, he stated with emphasis, would not be molested but would be protected by the government in England if they showed the disposition to "do but the Queen justice in her revenue and discountenance illegal trade and allow the admiralty their jurisdiction so far as agrees with the attorney general's opinion I sent you."<sup>100</sup> Penn urged upon Nathaniel Puckle the necessity of developing trade either in tobacco or in some other staple "that will pay debts in England, or we must be undone." Tobacco, "as great a drug as it is here," must still be used as the main medium of exchange "or we must take care to wear as well as eat our own produce." Penn wished for some stimulus "to excite the lazy inhabitants of those parts [i.e., Pennsylvania and the Territories] to make it [tobacco] better" and mentioned the Irish competitions at the courts of quarter sessions where the producers of linen entered upon a prize contest. On these occasions, he wrote, "the best of every one's make is brought to the quarter sessions, where the judges or bench gives by an agreement of the county a piece of plate of ten pound value to those that carry the day in their opinion."<sup>101</sup> The matter of "unmerchable tobacco" had engaged the attention of the council in Pennsylvania as early as 1701. In July of that year the councilors had proposed to the assembly that the colonists "have a say master, or some other course taken to prevent the packing of unmerchable tobacco."<sup>102</sup> Penn wrote to Logan a year later regretting his difficulty "in gathering in the lower rents in merchable tobaccos" and urging his agent to "take anything else that will make a surer market, though three or four months more

<sup>100</sup> Penn to Logan, March 10, 1703/4, Logan Papers, I, 48. In this letter Penn said: "I earnestly desire our folks would make their tobacco more correctly or give it over, for we lose intolerably by it besides the great dishonor to our country."

<sup>101</sup> Penn to Puckle, April 8, 1704, Penn MSS, X, Dom. & Misc. Letters, p. 92

<sup>102</sup> *Col. Rec.*, II, 26 (entry for July 26, 1701).



be required for it.”<sup>103</sup> Tobacco was an easy product to tax, and Penn rejoiced in 1700 to report that William III had “quashed the law of forty pounds of tobacco.”<sup>104</sup> Penn forwarded in 1706 to the Board of Trade a communication to his deputy in Pennsylvania from traders there “relating to hardships upon their exportations of tobacco.”<sup>105</sup>

The royal Charter provided that the customary one-fifth of all the gold and silver ore discovered in the region be presented to the Crown, and Penn considered himself entitled to a share also. In the Conditions and Concessions of 1681 were set up the regulations under which the precious metals might be discovered and mined. These provisions established the usual rewards for those who increase the national treasure. Article VIII permitted “such as are ingenious and willing to search out gold and silver mines” to “have liberty to bore and dig in any man’s property, fully paying the damage done.” If a discovery were made, the discoverer was to have one-fifth of the product; the owner of the land, one-tenth; the governor, two-fifths; and the rest, less the King’s share by the royal patent, was to go to the public treasury.<sup>106</sup>

Penn and the council thought that the proper functions of government extended quite far in the direction of what is now termed the New Deal. The provincial government, for example, attempted to regulate wages, to provide for the provisioning of the people, and to check the exploitation of the consumer by the merchant. A bill passed the council on March 26, 1684, “empowering the justices of each county court to set the wages of workmen and servants with a penalty.”<sup>107</sup> The council had agreed in the previous year: “That ’tis thought fit the care of magistrates, that due provision be made for the sustenance of the people; and though our provisions are but small, yet that there may be care taken every one may partake.”<sup>108</sup> During the month of December following this attempt to ration the people, the council had considered “the great grievance of tradesmen’s exaction” and thought

<sup>103</sup> Penn to Logan, Sept. 6, 1702, Penn MSS—Penn Family to Logan, I, 51.

<sup>104</sup> Penn to Blakiston, April 10, 1700, Letter Book, 1699-1701, pp. 21-22.

<sup>105</sup> B T.J., XVIII, 233 (entry for March 1, 1705/6).

<sup>106</sup> Hazard, *Annals of Pennsylvania*, p. 518.

<sup>107</sup> *Col. Rec.*, I, 98 (entry for March 26, 1684).

<sup>108</sup> *Ibid.*, p. 78 (entry for Aug. 1, 1683).

"fit to issue out an ordinance whereby to regulate the same."<sup>109</sup>

Penn's suggestions for building the city of Philadelphia bear some resemblance to the work of modern city planners.<sup>110</sup> He carefully laid out a scheme for his capital.<sup>111</sup> He outlined the details as to the location, direction, width, and even names of the streets. Places were specified for wharves and storehouses.<sup>112</sup> The size of lots was regulated. Provisions were made for the expansion of the population. Attention was given to order and beauty in the city. The people were encouraged to build houses at a distance one from the other so that plants, grass, and trees could help to realize the Founder's ideal of "a green country town."

Like social reformers before and since his time, William Penn had to wrestle with the eternal dilemma of libertarianism as opposed to deontology. Will simple knowledge of the truth suffice to make men free and does freedom make men moral, or must some men be their brothers' keepers? Even in primitive surroundings, remote from the debauching artificialities of civilization, can man be altruistic without some measure of authoritarianism? No formal philosophizing by Penn on this subject has been discovered. If a judgment may be hazarded from his practical policies, it must be recorded that he did not believe that pure freedom would be entirely sufficient to exorcise the old Adam. The Quaker accepted, in common with many men of his own generation and later ages, the doctrine that society is served more satisfactorily under some form of paternalism than under a regime of pure *laissez faire*. Penn must be numbered among those who have believed in a "planned society." It has been shown in another connection that he accepted the theory that human nature is depraved, and he held that "compulsion some way or other" was necessary to oblige the perverse sons of Adam to follow the righteous course. It is but a short step from this belief to the conviction that, aside from the negative function of restraining man's wickedness, government has the positive function of promoting righteousness and the public welfare. In *Fruits of Solitude* Penn wrote:

<sup>109</sup> *Ibid.*, p. 91 (entry for Dec. 27, 1683)

<sup>110</sup> Myers, *Narratives of Early Pennsylvania*, pp. 242 ff.

<sup>111</sup> Bolles, *Pennsylvania: Province and State*, I, 124.

<sup>112</sup> Hazard, *Annals of Pennsylvania*, p. 530.

“Hardly any thing is given us for ourselves, but the public may claim a share with us. But of all we call ours, we are most accountable to God and the public for our estates. In this we are but stewards; and to hoard up all to ourselves is great injustice, as well as ingratitude.” <sup>113</sup>

<sup>113</sup> *Fruits of Solitude*, pp 118-119.

## Chapter X

### PATRIARCH AND EDUCATOR

*Between a man and his wife nothing ought to rule but love. Authority is for children and servants; yet not without sweetness.*

*Learn, and teach your children, fair writing, and the most useful parts of mathematics, and some business when young, whatever else they are taught*

*We are in pain to make them scholars, but not men; to talk, rather than to know, which is true canting.*

*It were happy if we studied nature more in natural things, and acted according to nature, whose rules are few, plain, and most reasonable.*

—WILLIAM PENN

WILLIAM PENN thought of the family not merely as a group bound together, as in the present day, by few ties other than those of blood and affection, but as a social, educational, religious, economic, and to some extent even a governmental unit.<sup>1</sup> At the head of this societal organism was the father, the religious leader, economic support, and lawgiver of the family. In an age, however, when the authority of the male parent was generally recognized and emphasized, Penn could write that between "a man and his wife nothing ought to rule but love" and could clearly imply that "authority" was a concept which did not belong in the ideology of the marital relation.<sup>2</sup> Otherwise, he considered the father the head of the family, vested with power over the children. Though he complained of the great cruelty of

<sup>1</sup> Penn's ideas about the family are revealed in such sources as *Fruits of Solitude*, *Fruits of a Father's Love*, his fragmentary autobiographical remarks, his letters of advice to his wife and children upon his departure for America in 1682 and in 1699, his correspondence with Logan, and in the writings of many biographers, especially in Besse's "Account of the Author's Life," *Works*, I, 1-150, 151-238. In the first letter to his wife and children, Penn, wishing apparently to train his family in simplicity of living, wrote: "Read my No Cross, No Crown!—There is instruction." Among Penn's biographers, Hull, *William Penn: A Topical Biography*, pp. 15-65, has written the most conveniently arranged treatment of the Founder's family relationships.

<sup>2</sup> *Fruits of Solitude*, pp. 35-36. Compare I Pet. 3.1-6 and St. Paul's remarks about the subjection of women in I Tim. 2:12-15.

the paternal chastisement when he became a Quaker, he did not question his father's right to pronounce the harsh judgment.<sup>3</sup> In his own capacity as parent, he regarded himself as definitely the head of his family.

Biographers have much to say about the relations between the Quaker and the Admiral, his father.<sup>4</sup> The younger Penn's attitude varied from rebellion to filial loyalty. Samuel Pepys, their neighbor, reported many interesting items about their family life. When Sir William became concerned about his son's too brief career at Oxford, Pepys attempted to oblige the father by securing information for him about Cambridge as a possible alternative for the young man.<sup>5</sup> Before the dispute over religion had arisen and again after the elder and the younger Penn had agreed to differ peacefully about the son's conversion to Quakerism, they lived together apparently quite in the conventional relationship. Pepys noted numerous occasions when the two enjoyed social activities, plays, and soirees together.<sup>6</sup> Aside from the controversy about the Society of Friends, William Penn's attitude toward his father seems to have been conventionally loyal and respectful. The son acted as the Admiral's aide during one phase of the latter's naval service and carried at least one message from him to King Charles at Whitehall. The younger man, then not with the fleet, wrote an affectionate letter to his father on the eve of the battle of Lowestoft in which he implored divine protection for the Admiral "in that smoky day" and declared: "And, as I never knew what a father was till I had wisdom enough to prize him, so I can safely say that now, of all times, your concerns are most dear to me. It's

<sup>3</sup> "No Cross, No Crown," *Works*, I, 272-439. During the quarrels over the younger Penn's conversion to the doctrines of the lowly sect of Friends the Admiral found his son a great cross. Some authorities state that the father used his patriarchal power to chastise the young man physically and even to close to him the doors of the family home. But see Myers, *William Penn's Early Life*, pp. 39-40.

<sup>4</sup> Clarkson, *Memoirs of the Private and Public Life of William Penn*, I, 12-13, 16-19, 61, 63; Janney, *The Life of William Penn*, pp. 13-58, 72-77; Graham, *William Penn*, pp. 30-31; Dobree, *William Penn*, pp. 10, 24-26, Hull, *William Penn: A Topical Biography*, pp. 17-24; Gough, *A History of the People Called Quakers*, II, 214. Most of these accounts are based on William Penn's own record in the second edition of *No Cross, No Crown*, chap. xxi, "Serious Dying, as well as Living, Testimonies. . . Par. 37, My own Father."

<sup>5</sup> Pepys, *Diary and Correspondence*, I, 406, 408, 424 (entries for Jan. 25, 1661/2; Feb. 1, 1661/2; and March 16, 1661/2).

<sup>6</sup> *Ibid.*, pp. 393-398 (entries for Dec., 1661).

hard, meantime, to lose both a father and a friend. . . ."<sup>7</sup> During the next five years the younger Penn was frequently at odds with this father and friend on the subject of Quakerism; but, as has been indicated earlier, near the close of the Admiral's life, there was a final reconciliation. The son was released from his prison at the close of the Penn-Mead trial in September, 1670, perhaps through the secretly exerted influence of the father, in time to visit the latter upon his deathbed. Biographers picture the dying Sir William in a repentant mood on the question of Quakerism and leave him and "Son William" in quite edifying harmony with respect to pious living and dying.<sup>8</sup> A few years later the son, with filial zeal and devotion, indignantly defended the father's name against some scandalous charges raised to tarnish the dead man's reputation.<sup>9</sup> The Quaker's two sojourns in Ireland as the manager of his father's estates are described by biographers but without abundance of detail.

William Penn was an affectionate, faithful, and probably indulgent husband and father.<sup>10</sup> His biographers and other writers

<sup>7</sup> Janney, *op. cit.*, p. 18, Hull, *William Penn. A Topical Biography*, p. 85.

<sup>8</sup> Webb, *The Penns & Peningtons*, pp. 268-269, Granville Penn, *Memorials of the Professional Life and Times of Sir William Penn*, II, 562-567; Stoughton, *William Penn*, pp. 37-50, 75, Dobree, *op. cit.*, pp. 74-75.

<sup>9</sup> Granville Penn, *op. cit.*, p. 569. See also Fisher, *The True William Penn*, p. 56.

<sup>10</sup> There is extant one unsupported rumor hinting at sexual immorality in Penn's early career. Years after the date at which the alleged event could have taken place, William Byrd reported a story about Penn's relations with a mistress of the Duke of Monmouth. Where Byrd got the story is unknown, and in the absence of any confirming evidence it must be regarded as without foundation in fact. The tale appears in *The Writings of Colonel William Byrd of Westover in Virginia Esqr.*, edited by Bassett, pp. 19-20. Bassett observes in a note. "This piece of London gossip seems not to have been recorded by any other contemporary. Penn's character and his declarations were entirely at variance with this report." On one occasion Samuel Pepys hinted at his own jealousy because of Penn's allegedly earnest desire to visit with Pepys's young wife, but the diarist confessed almost in the same breath that his fears were preposterous. Pepys, *op. cit.*, III, 36, 40, 45 (entries respectively for Aug. 26, Sept. 5, and Sept. 14, 1664) Penn was then not yet twenty years old. Lord Macaulay's denunciation of Penn does not include any such charges of incontinence. In view of his general attitude it would seem certain that Macaulay, had he known of any scandalous rumors concerning Penn, would have mentioned them—particularly when the attacks upon his first edition by defenders of the Quaker induced him to publish a rejoinder. William Penn's unaccepted public challenge in court in his twenty-seventh year inviting the statement of any known impropriety in his conduct ought to be excellent evidence to support the view that his reputation was above criticism at the time. *Works*, I, 38-39. See also Myers, *William Penn's Early Life*, p. 47.

praise highly his first wife, Gulielma Maria Springett, but do not give much detailed information about her domestic life with Penn. It is not known to what extent she shared in the management of the affairs of the family. Her husband, however, left her at home during his extended journeys to the Continent and during his first sojourn in America; and she must, therefore, have possessed some managerial competence. When she died in the spring of 1694, her bereaved husband wrote an edifying account of her going, which, like that of the death of their son, Springett, two years later, is almost too intimate to accord with modern canons of good taste.<sup>11</sup> Two weeks before the death of Springett, Penn married Hannah Callowhill.<sup>12</sup> The letters written by her to James Logan show that she played an important part in the direction of the family economy,<sup>13</sup> though there is no evidence that she advised her husband with reference to public business or political affairs. After his death in 1718, she successfully defended the inheritance of her children against the efforts of William Penn, her stepson, and his heir, Springett, to break the Founder's will.<sup>14</sup> By this instrument William had received no share in Pennsylvania, on the ground that his father had already assigned to him properties out of the holdings of his mother and of his grandfather, the Admiral.<sup>15</sup> The children of the younger William, as well as Letitia Penn Aubrey, his sister, were given extensive grants in the province; but the proprietary rights descended to the sons of Hannah Callowhill.<sup>16</sup>

Penn's writings show that he emphasized the spiritual duties with which he thought fatherhood invested. His letter of August 4, 1682, to his wife and children, written on the eve of his first voyage to America, is full of advice which seems to have sprung from piety as well as from affection. His address to his children

<sup>11</sup> Penn, *Account of the Blessed End of Gulielma Maria Penn and Springet Penn, the Beloved Wife and Eldest Son of William Penn*.

<sup>12</sup> Hull, *William Penn: A Topical Biography*, pp. 57-61, discusses Hannah Callowhill.

<sup>13</sup> For example, Hannah Penn to Logan, undated, *Penn and Logan Correspondence*, I, 42.

<sup>14</sup> Shepherd, *History of Proprietary Government in Pennsylvania*, pp. 199-201, gives the story of the legal proceedings in the suit. It is not a justification or proof of any particular capacity in Hannah Penn.

<sup>15</sup> Probate of William Penn's will, 1712, MS, Penn Papers, Deed Box.

<sup>16</sup> Compare Shepherd, *op. cit.*, pp. 199-201.

in 1699, published after his death as *Fruits of a Father's Love*, is of a like nature.<sup>17</sup> He believed, of course, in the institution of family prayers in the Quaker style.<sup>18</sup> That he took most seriously his duty as spiritual mentor of his family is clear from his bitter disappointment in the conduct of William, Junior. The blame for this young man's sorry career the Founder charged to his own necessary preoccupation with Pennsylvania.<sup>19</sup>

Penn thought that the mother of the family should have certain educational and economic functions, especially if she were left a widow, but during the lifetime of the father the direction was to come from him. Nothing known of Penn's relations with his mother throws any light upon his opinions about woman's place in the family or about the larger question of her general position in society.<sup>20</sup> His theories concerning women resemble in some respects those current among the ruling classes of his day, but in other particulars they reflect the Quaker equalitarianism which permitted every person, male and female alike, to give testimony and form part of the church.<sup>21</sup> It has been noted that Penn once plainly indicated his view that "authority" did not properly exist as between man and wife. The early legal system of Pennsylvania discriminated in some of its features against women. They could neither vote nor hold office.<sup>22</sup> Yet if the Laws Agreed upon in

<sup>17</sup> Penn's letter of advice to his wife and children, of Aug. 4, 1682, is in Janney, *op cit.*, pp. 187-193. For the second letter of advice, 1699, see *Works*, I, 893-911. See also Hull, *William Penn: A Topical Biography*, pp. 49-50, 161, 172-173.

<sup>18</sup> In his letter of 1682 he adjured his wife to "let meetings be kept once a day in the family to wait upon the Lord."

<sup>19</sup> Among the costs of his project in Pennsylvania the Founder reckoned as the most bitter sacrifice the waywardness of his son.

<sup>20</sup> For a convenient summary of what is known about Penn's mother and her relationships with him, see Hull, *William Penn: A Topical Biography*, pp. 25-31. The famous Mason L. Weems has in his biography of William Penn a characteristically undocumented account of the mother and her influence upon her distinguished son. This biography is among those discussed in Hull, *Eight First Biographies of William Penn*, pp. 13-27.

<sup>21</sup> "Just Measures," *Works*, II, 775. See Hull, *William Penn: A Topical Biography*, pp. 176-177.

<sup>22</sup> Women were not explicitly denied the right of voting under the terms of the First Frame and of the Laws Agreed upon in England, nor indeed were they forbidden expressly to hold office. The wording of the definition of a freeman in the second article of the Laws, however, excludes women as freemen and, therefore, as voters or officeholders. Though in the sixth article, dealing with the procedure



England implicitly excluded them from service on juries, there is evidence that on occasion women did act as jurors. Lydia Wade, it is said, "did her duty, a number of times, as a witness and as a juror in the Chester County Court. . . ." <sup>23</sup> The historian of Delaware County, Pennsylvania, relates that a jury of women was called in that county in 1689 to pass upon the case of a young woman charged with "carnal intercourse." <sup>24</sup> The Laws Agreed upon in England further provided that with respect to ownership of land, seven years of "quiet possession shall give an unquestionable right, except in cases of infants, lunatics, married women, or persons beyond the seas." The sixth article, on the other hand, specifically indicated that any person, man or woman, might plead his or her case in court and guaranteed certain rights to all persons, regardless of any distinction whatever. The uniform punishment for sex crimes may argue that Penn believed in the so-called single standard of morals for both sexes, certainly an uncommon ideal in his day. <sup>25</sup>

Penn defended the practice, then in debate between differing factions of the Friends, of holding separate meetings for women. His argument was that the growth of the sect necessarily increased the business of the meetings, "not the least part" of which related to women. Meetings for women would mean, he declared, that "two businesses are doing at one and the same time, and consequently there must be [*sic*] needs be a greater dispatch. . . ." More-

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in the courts, the masculine and feminine pronouns are both used to refer to the nouns "persons" or "party," in the second article, which defines "freeman," only the masculine pronoun is used instead of the impersonal pronoun "that." Standing alone, this verbal distinction may seem insufficient, but read in the light of the English practice of the day, it seems to the present writer to deny the right of women to vote or hold office. At any rate, in practice women did not vote or hold office in the Pennsylvania of Penn's day, whatever the theory might be construed to be. See Hazard, *Annals of Pennsylvania*, pp. 569-571; Thoipe, *The Federal and State Constitutions*, V, 3060.

<sup>23</sup> Hawkins, "Lydia Wade, the First American Hostess of William Penn," *Friends' Hist. Assoc., Bulletin*, Vol. XXI (1932), No. 2, p. 64.

<sup>24</sup> George Smith, *A History of Delaware County*, p. 174. Barnes, *The Evolution of Penology in Pennsylvania*, p. 36, note 124, says of this episode that it "was probably the first, and perhaps the only, instance of a jury of women in the American colonies. . . ."

<sup>25</sup> Hazard, *Annals of Pennsylvania*, pp. 622-623, Arts. 8, 9, 10, 12, and 13 of the Great Law

over, "women, whose bashfulness will not permit them to say or do much as to church affairs before the men, when by themselves exercise their gifts of wisdom and understanding, in a discreet care for their own sex. . . ." <sup>26</sup>

On the subject of marriage Penn shared the Scriptural theory that "it is not good that the man should be alone." He married at the age of twenty-seven and, again, at the age of fifty-two, two years after the death of his first wife. It will be recalled that he argued for the planting of colonies on the ground that they afforded an opportunity for marriage which was not offered by the mother country. He regarded it as an evil that "the pride of the age . . . is so gross and universal" that grandees must keep many servants, who "rarely marry, though many of them do worse, but if they do, it is when they are in age. . . ." Moreover, "many of them choose rather to vend their lusts at an evil ordinary, than honestly marry and work, the excess and sloth of the age not allowing of marriage and the charge that follows. . . ." <sup>27</sup> Like moralists of other ages, Penn was quick to see the evils that come to a land from marriage too commonly deferred or avoided.

When he was still a very young man, he wrote an essay entitled "Right Marriage as It Stands in the Light and Counsel of the Lord God. . . ." <sup>28</sup> The burden of this paper is the religious aspect of marriage. The author advised against that interesting diversion of middle-aged ladies and dynastic statesmen, matchmaking. He cautioned all "that profess the truth" not to "speak to, or advise and encourage (without special motion from the Lord) male or female to seek or desire after each other in reference to a marriage [*sic*] state . . . but that everything of that kind arise purely and simply from within the parties themselves." With greater maturity Penn, like others, changed his views on this subject. He advised his wife, in the letter of August 4, 1682, to supervise carefully, for their children, this most intimate of human concerns: "When marriageable, see that they [the children] have worthy persons in their eye, of good life, and good fame for piety and understanding. I need no wealth, but sufficiency; and be sure their love be dear,

<sup>26</sup> *Works*, II, 775.

<sup>27</sup> Hazard, *Annals of Pennsylvania*, pp. 507-508.

<sup>28</sup> *Letter Book*, 1667-1675, pp. 6-9

fervent, and mutual, that it may be happy for them. . . ." Later, in *Primitive Christianity Revived*, he stated the doctrine that mixed marriages, unions of Quakers with non-Quakers, were not to be allowed.<sup>29</sup> He set down in his maxims nine aphorisms on the subject of "Right Marriage" and fourteen more on the topic of "Marriage."<sup>30</sup> "Never marry," said he, "but for love; but see that thou lovest what is lovely." He followed in practice the customs of his day as to the dower and the marriage settlement, but he decried marriage for money.<sup>31</sup> Almost in the very phraseology of some contemporary advocates of eugenic marriage, Penn remarked on the subject of progeny: "Men are generally more careful of the breed of their horses and dogs, than of their children." He praised the Quaker wedding as showing "a distinguishing care, above other societies professing Christianity. . . ." <sup>32</sup> Marriage in early Pennsylvania was regulated by law not only in order to prevent clandestine or plural unions but also to determine the legal form to be followed in the ceremony.<sup>33</sup> It was provided by statute "that all marriages not forbidden by the law of God shall be encouraged, but the parents or guardians shall be first consulted, and the parties' clearness of all other engagements assured by a certificate from credible persons; and the marriage shall be published before it be solemnized. . . ." The law forbade not only marriage, but even the contract to marry, involving a widow or widower within one year after the decease of the former spouse.

William Penn did not follow Harrington in requiring for certain of his magistrates the married condition,<sup>34</sup> but in the second

<sup>29</sup> *Works*, II, 875.

<sup>30</sup> *Fruits of Solitude*, pp. 31-32, 34-36

<sup>31</sup> See Penn's letter to Logan with respect to his son's marriage, July 8, 1707. *Penn and Logan Correspondence*, II, 235-236.

<sup>32</sup> "A Brief Account of the Rise and Progress of the People Called Quakers," *Works*, I, 869-870. Neither priest nor magistrate was involved in the Quaker wedding. The ceremony consisted simply in the promise of the man and the woman "to be loving and faithful in that relation, till death shall separate them." It was required that as a preliminary the two present themselves at the monthly meeting and declare their intentions, "if the said meeting have nothing material to object against it." Under the law in Pennsylvania solemnization followed the simple Quaker rite of "taking and owning one another as husband and wife, before sufficient witnesses." Hazard, *Annals of Pennsylvania*, p. 626.

<sup>33</sup> Hazard, *Annals of Pennsylvania*, pp. 626-627.

<sup>34</sup> Compare Harrington, *The Commonwealth of Oceana*, p. 81: "The rest of the ballot shall proceed exactly according unto that of the first day. But for as much

assembly he and the council introduced a measure compelling young men to marry.<sup>35</sup> The bill was not passed. Bolles remarks that such a law would have established polyandry in the province, for there were more men than women in Pennsylvania.<sup>36</sup> Obviously, under these circumstances, Penn's advocacy of such a statute would support the charge that he lacked the statistical sense.<sup>37</sup> Contrasted with his earlier deprecation of matchmaking, the Founder's position shows a noteworthy development in the direction of social paternalism. Penn had departed, in fact, by 1696 so far from his earlier view that he was willing to require the consent of parents or guardians before even a proposal of marriage could be made.<sup>38</sup>

The problem of preventing clandestine and plural marriages occupied much of Penn's attention as governor of Pennsylvania. The assembly passed several acts on the initiative of the Founder and the council to check the practice indulged in by servants of eloping and marrying, irrespective of the desires or even of the knowledge of their masters.<sup>39</sup> The subject was considered sufficiently important to be discussed and to be made the subject of a recommendation submitted to the home government by the conference of governors at New York in 1700.<sup>40</sup> Soon after the conference Penn explained to Governor Nicholson some of the difficulties which confronted the Quakers in their attempt to check clandestine marriages. One obstacle was the opposition of the Anglican clergyman and vestry in Philadelphia to the law on marriages recently passed at New Castle. This enactment required that "persons of all persuasions shall post up one month before marriage in the most noted place of the county they live in" notices of intention to marry with "the hand of one justice of the peace to the paper before it is posted that none may presume to put it up

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as the commonwealth demandeth as well the fruits of a man's body as of his mind, he that hath not been married shall not be capable of these magistracies until he be married. . ."

<sup>35</sup> *Col. Rec.*, I, 93 (entry for Jan. 17, 1683/4).

<sup>36</sup> Bolles, *Pennsylvania: Province and State*, I, 134.

<sup>37</sup> Buell, *William Penn*, pp. 169-170.

<sup>38</sup> "Primitive Christianity Revived," *Works*, II, 875.

<sup>39</sup> *The Acts of Assembly of Pennsylvania*, chap. v.

<sup>40</sup> Penn to Bellomont, Oct. 10, 1700, and Penn to the Board of Trade, same date, Letter Book, 1699-1701, pp. 42, 49. See also B.T.P., Vol. VI, Part I, G 4; Penn to Nicholson, Dec. 31, 1700, Letter Book, 1699-1701, p. 83.

at nights and take it down in the mornings as they have often done in towns and also in the country for a day or two and then taken them down again whereby irregular marriages have been accomplished." Penn said that the purpose of this enactment was "that people might not be deprived of their children or servants without consent." The Anglicans objected on the ground that their clergymen were "under an oath of canonical obedience"; hence it was their duty to marry every couple that came to them with request for marriage, provided they were "not too near of blood, above one and twenty and that have been thrice asked." Penn reasoned with the Anglican minister in Philadelphia and told him that the law did not contravene the oath but merely strengthened it. The Quaker agreed about the marriage of those "within blood" and of those who were under the legal age; but he asserted "according to American good sense that bound servants are minors and are not of age to marry without manifest injustice to their masters unless they yield to it. . . ." It was in this letter that Penn, remarking that "servants are the best leg America has to stand upon," pronounced the extraordinary judgment that it was "an ill consequence to plead conscience against the security of property, and such are servants. . . ."

The assembly rejected, soon after the date of this letter, an amendment to the bill on marriages proposed by Penn.<sup>41</sup> The proprietor and the council urged the assembly during the next year to consider the law about marriages in those particulars in which it was offensive to the Church of England.<sup>42</sup> Chapter V of the acts passed at that session of the legislature provided "for the preventing of clandestine marriages." This law did not concede to the Anglicans the point in dispute; it expressly renounced any condition with respect to them but permitted the Quakers to marry as they chose. It also applied some safeguard as to secret marriages. The important thing, upon which the law insisted, was the giving of notice to "parents, masters, mistresses or guardians" of the parties concerned.<sup>43</sup> The intention was plainly to protect the masters of servants and the parents of minors.

<sup>41</sup> *Votes and Proceedings of the House of Representatives*, Vol. I, Part I, p. 133 (entry for Nov. 7, 1700).

<sup>42</sup> *Col. Rec.*, II, 48-49 (entry for Oct. 13, 1701).

<sup>43</sup> *The Acts of Assembly of Pennsylvania*, pp. 18-19.

The Anglicans in England were not satisfied with the Pennsylvanian legislation on the subject of marriage. During the first half of 1702 Penn and the Bishop of London both appeared before the Board of Trade to state their cases on the marriage law.<sup>44</sup> Penn insisted in his argument upon the necessity of publication at least a month in advance of the intention to marry. He agreed, however, that if a certificate of publication of banns under the canons of the Church of England were had in accordance with the provisions of the law, such an arrangement would be satisfactory. He thought the issue of sufficient importance to be included in the conditions submitted in his draft of a plan for the surrender of his government to the Queen. Fourth in order among the items "Pray'd from the Queen at the Surrender," in 1705 was: "To marry according to our [i.e. the Quakers'] way and method, and such marriages to be allowed and held good and valid to all intents and purposes."<sup>45</sup> Penn's desires with reference to marriage in the province, then, were two: to guarantee to the Friends the right to conduct their ceremony as they saw fit, and to restrain minors and servants from matrimony unless their parents, guardians, or masters were willing. If there be any inconsistency of principle involved, Penn, like other philosophers turned statesmen, either ignored the fact or brushed it aside as of no practical consequence. He was, of course, neither the first nor the last to consider consistency "the hobgoblin of little minds."

William Penn shared the view of his age that an increasing population was generally beneficial to a country.<sup>46</sup> His approval of large families must have had a religious basis as well as a foundation in the theories current at the time. If he ever considered the possibility of an artificial check upon increasing population, the thought would no doubt have seemed impious to him. His own

<sup>44</sup> B.T.J., XV, 16-17, 22-24, 52-60, 65-69, 71-73 (entries for May 12, May 14, June 1, June 4, and June 8, 1702, respectively).

<sup>45</sup> B.T.P., Vol. VIII, Part I, N 42, listed as received and read on Sept. 1, 1705.

<sup>46</sup> See Stangeland, *Pre-Malthusian Doctrines of Population*, chap. vi, pp 185-223. Pufendorf, writing his great work *Of the Law of Nature and Nations* for publication in 1672, condemned polygamy, "on the ground of expediency" because it tended to produce "a burdensome proletariat." For the same reason he thought slavery desirable, "since it also, like monogamy, operates to reduce the number of idle men—thieves, vagabonds and sturdy beggars." See Dunning, *A History of Political Theories from Luther to Montesquieu*, pp. 320-321. See also Beer, *The Old Colonial System*, Part I, Vol. I, p. 19.

two households apparently exemplify these statements. He wrote to the Free Society of Traders in 1683 commending the Dutch and Swedish settlers in his province: "As they are people of proper [*sic*] and strong of body so they have fine children and almost every house full, [Here follows an obliterated passage.] to find one of them without three or four boys, and as many girls some [times?] six, seven, and eight sons."<sup>47</sup>

The first advantage that Penn claimed for colonies in his famous argument on the subject was that they contribute to "the increase of human stock." He tried to refute the contention that colonies were evil because they decreased the population of the mother country. The fall of ancient empires, he maintained, was caused not by a decrease in population resulting from colonization but by their "luxury and corruption of manners." He asserted that the plantations of the English gave more opportunity for matrimony. He lamented the decrease of the rural population in England. The contemporary economic trend in the country was evil, he thought, because it "occasions servants and such children as go not to trades to continue single, at least all their youthful time, which also obstructs the increase of our people." Among the persons best fitted to go to a new country, he said, were "those ingenious spirits that, being low in the world, are much clogged and oppressed about a livelihood," for in a new country they would have "time and opportunity to gratify their inclinations, and thereby improve science and help nurseries of people."<sup>48</sup>

Sharpless says that the Quakers in Pennsylvania did not have "very exalted" ideas about education.<sup>49</sup> Since they did not require an educated ministry, they had not the same reason to establish schools and colleges as had the Puritans in Massachusetts. Penn indicated the Quaker attitude toward "useless and sophistical

<sup>47</sup> The passage quoted is taken from the original MS in the library of the Historical Society of Pennsylvania, labelled "Incomplete draft, Aug. 16, 1683." This draft is partly in Penn's handwriting, partly in that of others. It is much mutilated, interlined, and corrected. The letter is printed in various places under the heading "Description of Pennsylvania." See *Old South Leaflets*, Vol. VII, No. 171, pp. 377-392. See also *Peace of Europe*, pp. 277-292.

<sup>48</sup> Hazard, *Annals of Pennsylvania*, pp. 505-513.

<sup>49</sup> Sharpless, *A Quaker Experiment*, Part I, pp. 35 ff. See Wickersham, *A History of Education in Pennsylvania*, pp. 25-29, who does not accept the opinion that the Quakers as a whole were either ignorant or indifferent to education. Compare also Jernegan, *The American Colonies*, p. 238.

science" in his preface to the original edition of George Fox's *Journal*. He there praised his deceased friend's "ministry and writings" as being "from one that was not taught of man, nor had learned what he said by study." Fox's teachings were not "notional or speculative," wrote Penn, "but sensible and practical truths, tending to conversion and regeneration and the setting up of the kingdom of God in the hearts of men." He had often rejoiced that God had not chosen "any of the wise and learned of this world to be the first messenger, in our age, of His blessed truth to men; but that He took one that was not of high degree, or elegant speech, or learned after the way of this world. . . ." Thus the divine message and work "might come with less suspicion or jealousy of human wisdom and interest, and with more force and clearness upon the consciences of those that sincerely sought the way of truth in the love of it. . . ." <sup>50</sup>

In *Truth Exalted* the young Penn fiercely denounced the Anglicans as "extollers of humane learning, as the only way to know God; admirers of universities, signal places for idleness, looseness, profaneness, prodigality, and gross ignorance. . . ." <sup>51</sup> He inveighed in *No Cross, No Crown*, like religionists of other days, against "an inordinate pursuit of knowledge." <sup>52</sup> His reason for deprecating that activity was Scriptural. "It is plain," he wrote, "that an inordinate desire for knowledge introduced man's misery and brought an universal lapse from the glory of his primitive state. Adam would needs be wiser than God made him. . . ." The universities, he declared, had "made more loose than learned; and what extravagancy is begun there is usually perfected abroad or at our Inns of Courts at home, that now and then afford us a few able lawyers, but the generality are like the man of old who returned home seven times worse than he went out." <sup>53</sup> Though Penn was himself a well-educated man, he plainly disapproved of what might have been called the higher education of his day.

Like other Friends,<sup>54</sup> however, he believed in efficient elementary training for the children of all, rich and poor alike. A major reason for this position was his belief that an important

<sup>50</sup> Fox, *Journal of George Fox*, pp. xxvi-xxvii.

<sup>51</sup> *Works*, I, 243.

<sup>52</sup> *Ibid.*, pp. 306 ff.

<sup>53</sup> *Ibid.*, p. 738.

<sup>54</sup> Proud, *The History of Pennsylvania*, I, 36-37.



function of this instruction was training for ethical character. In the essay on education incorporated in the *Address to Protestants*,<sup>55</sup> he stated that the first objective was "to breed up youth in morality." This matter, moreover, was a major concern of government. "There is scarcely any one thing," he wrote, "that so much needs the wisdom of the nation in the contrivance of a new law as the education of our youth, whether we consider the piety or prudence of our manners, the good life, or just policy of the government." This principle was enacted into law in Pennsylvania in the one hundred and twelfth chapter of the statutes passed by the assembly at Philadelphia on March 10, 1683. There it was provided that children should be trained "so that they may be able to read the Scriptures; and to write by that time they attain to twelve years of age. . . ." <sup>56</sup> "Therefore," he argued in the *Address to Protestants*, "depress vice and cherish virtue. . . ." Like some modern advocates of education for ethical character, he lamented what he thought a false emphasis in the training of the young. "We are in pain," he wrote in the *Fruits of Solitude*, "to make them scholars, but not men. . . ." <sup>57</sup>

A second objective for the instruction of youth as set forth in the *Address to Protestants*, has a similarly modern ring. He argued that it was necessary for the safety of the state. "If we would preserve our government," he declared, "we must endear it to the people. To do this, besides the necessity of present just and wise things, we must secure the youth." Youth could be so secured only "by the amendment of the way of their education, and that with all conceivable speed and diligence." The state he thought "a sort of trustee for the youth of the kingdom, who, though now minors, yet will have the government when we are gone." Educators and propagandists of the present day might well have written these very arguments in support of their thesis that an educated citizenry is the sole hope of democracy.

Penn's recommendations as to the proper subject matter to be used in instruction illustrate his interest in the practical. As a father, he advised his children to learn and teach their offspring

<sup>55</sup> *Works*, I, 738-741.

<sup>56</sup> *Charter to William Penn and Laws of the Prouince of Pennsylvania*, p. 142.

<sup>57</sup> *Fruits of Solitude*, p. 18.

"fair writing and the most useful parts of mathematics; and some business, when young, whatever else they are taught."<sup>58</sup> Similarly, in the *Address to Protestants*, he proposed that children be taught "some of the more obvious and easier parts of mathematics and the knowledge of plants and natural bodies . . . that they may be instructed in the knowledge of nature and learn things at the same time they learn words. . . ." Nature he considered "an excellent book, easy, useful, pleasant, and profitable." In the *Fruits of Solitude* he again expressed the opinion that nature should be more studied, "whose rules are few, plain, and most reasonable." In the same work he regretted that the schools too often obliged young pupils to leave "their natural genius to mechanical and physical or natural knowledge uncultivated and neglected" while they were being taught "words and rules to know grammar and rhetoric and a strange tongue or two, that it is ten to one may never be useful to them." Languages, to be sure, thought this educational utilitarian of the seventeenth century, ought not be "despised or neglected; but things are still to be preferred." The study of nature would definitely contribute to vocational education. "Many able gardeners and husbandmen are ignorant of the reason of their own rules that govern their excellent workmanship." A properly educated workman, however, "is master of the reason of both, and might be of the practice too, if his industry kept pace with his speculation, which were very commendable and without which he cannot be said to be a complete naturalist or mechanic."<sup>59</sup>

The theme of Penn's *Peace of Europe* is, of course, only incidentally the education of youth; but in that essay he outlined similar educational objectives.<sup>60</sup> To avoid effeminacy, young men should be trained not by military experience, but "by low living and due labor." Boys should be instructed in mechanical knowledge and in natural philosophy. "This would make them men." Moreover, "the knowledge of nature and the useful as well as agreeable operations of art, gives men an understanding of themselves, of the world they are born into, how to be useful and

<sup>58</sup> *Works*, I, 897.

<sup>59</sup> *Fruits of Solitude*, pp. 18-20.

<sup>60</sup> *Peace of Europe*, p. 14

serviceable, both to themselves and others, and how to save and help, not injure or destroy." Education seemed to Penn an alternative to war. Such a theory is, of course, not without forceful advocates today. Understanding of government, "the particular constitutions of Europe, and above all of his own country, are very recommending accomplishments." Such knowledge equipped a man for Parliament and for governmental service in his own country and the diplomatic field abroad. "At least," concluded Penn of a man thus trained, "he is a good commonwealth's man, and can be useful to the public or retire as there may be occasion."

Penn, like John Locke, advocated some of the naturalistic principles of instructional technique accepted by modern educational psychologists. "The first thing obvious to children," he wrote, "is what is sensible." He argued that the memories of children were overloaded too early. They "had rather be making of tools and instruments of play; shaping, drawing, framing, and building, etc. than getting some rules of propriety of speech by heart. And those also would follow with more judgment and less trouble and time."<sup>61</sup> In the *Address to Protestants* he urged that studies must be suited to the understanding of the pupils. "Cross not," he said, "the genius of your youth, but match their talents well." Moreover, instructors should concern themselves earnestly "to make the ways of learning easy and cheerful." Education should be accomplished without harsh disciplinary measures, "without much fierceness or beating." Those who obey only through "base fear make fear and not reason the rule of their obedience." They tend to "turn mere mercenaries and only worship violence." Mildness, reasonable correction never in excess of the fault, persuasion "to amendment by smiles and favor"—such a policy "awakens the noble part and excites youth to perform that which may ingratiate them with their tutors." Penn, like modern pedagogues, did not believe that to spare the rod meant necessarily to spoil the child.

Reading for young people, he thought, should be carefully selected. "Have but few books," he advised his children, "but let them be well chosen and well read, whether of religious or civil subjects." He recommended that they "shun fantastic opinions:

<sup>61</sup> *Fruits of Solitude*, pp. 18-19. See also Bartlett, "William Penn and Education," *Friends Intelligencer*, Vol. LXXXIX (1932), No. 43, p. 848.

measure both religion and learning by practice; reduce all to that, for that brings a real benefit to you, the rest is a thief and a snare." Moreover, "reading many books is but a taking off the mind too much from meditation. Reading yourselves and nature, in the dealings and conduct of men, is the truest human wisdom."<sup>62</sup> Some books he found positively bad; therefore, he advocated censorship. "I would have," he wrote in the *Address to Protestants*, "no books used in schools in which there may be the least indecency." He thought it "not without reason" that there had existed "ancient canons against the reading of such heathen authors" as those from whose writings "our youth has learned base obscenities and a corrupt conversation." He denounced it as "an affront to Christianity, yea, to our natures, to fetch our wit or our manners from them." He thought it would be well if there were "some tracts of moral virtues and invectives against vice" in the languages which it was desired that youth should learn. He recommended the composition by "skillful, sober, and judicious men" of works suited to the maturity of the pupils on "the histories and transactions of our own kingdoms, the interest of the true Protestant religion and civil policy amongst us." There should be included in such writings "a summary of the most virtuous and infamous actions of former times, with the rewards and punishments they had received from God and just government." Penn hoped that by introducing the young to such edifying reading materials through "the power of example they may be deterred from vice, and provoked to an honest emulation of the virtues and reputation of the ancients." In reading, as in education generally, his first objective was to build good moral character.

Since the training of children was a vital concern of the state, Penn believed in the principle of public education. Article XII of the Frame of 1682 provided "that the governor and provincial council shall erect and order all public schools, and encourage and reward the authors of useful sciences and laudable inventions, in the said province."<sup>63</sup> Article XXVIII of the Laws Agreed upon in England ordered "that all children within this province, of the age of twelve years, shall be taught some useful trade or skill, to the

<sup>62</sup> *Works*, I, 898-899.

<sup>63</sup> Thorpe, *op cit.*, p. 3056; Hazard, *Annals of Pennsylvania*, p. 564

end none may be idle, but the poor may work to live, and the rich, if they become poor, may not want " <sup>64</sup> The Great Law required that "the laws of this province . . . shall be one of the books taught in the schools of this province and territory thereof." <sup>65</sup> This provision obviously represents the philosophy that education for citizenship is a primary function of the state, and it resembles the present constitutional and statutory requirements in some of the states of the Union. Reference has been made earlier to the one hundred and twelfth chapter of the laws passed by the assembly at Philadelphia on March 10, 1683, which contained the same phraseology as that quoted above from the twenty-eighth article of the Laws Agreed upon in England. This statute was designed to accomplish "the end that poor as well as rich may be instructed in good and commendable learning, which is to be preferred before wealth." It required "that all persons in this province and territories thereof, having children, and all the guardians or trustees of orphans, shall cause such to be instructed in reading and writing." Failure to comply was penalized by fines, "except there should appear an incapacity in body or understanding to hinder it." <sup>66</sup> In the *Peace of Europe* Penn declared that education of the youth, "next to the present and immediate happiness of any country, ought of all things to be the care and skill of the government. For such as the youth of any country is bred, such is the next generation, and the government in good or bad hands." Thus, again, the Quaker anticipated the views of modern educators.

Penn and the council in 1683, "having taken into their serious consideration the great necessity there is of a school master for the instruction and sober education of youth in the town of Philadelphia," arranged with one Enoch Flower, who had been a teacher for some twenty years in England, to undertake the instruction of the young in that city. This man "embraced it upon these following terms: to learn to read English, four shillings by the quarter; to learn to read and write, six shillings by the quarter; to learn to read, write, and cast accounts, eight shillings by the quarter; for boarding a scholar, that is to say, diet, washing, lodg-

<sup>64</sup> Hazard, *Annals of Pennsylvania*, p. 572; Thorpe, *op. cit.*, p. 3062.

<sup>65</sup> Hazard, *Annals of Pennsylvania*, p. 634, Article 68.

<sup>66</sup> *Charter to William Penn and Laws of the Province of Pennsylvania*, p. 142.

ing, and schooling, ten pounds for one whole year."<sup>67</sup> Penn sent John Saxby to Thomas Lloyd and others in Pennsylvania in 1685 with the recommendation that he was "a bred scholar, capable of teaching the Latin, Greek, writing and arithmetic very well." He desired that this person be encouraged and employed.<sup>68</sup> In 1689 he ordered the establishment in Philadelphia of a public grammar school, which has persisted to the present day as the William Penn Charter School.<sup>69</sup> The first teacher in this institution was the famous George Keith, later to be the center of so much theological controversy in the province. An interesting provision concerning the foundation of this school was that which permitted children of poor parents to receive their education at the public expense.<sup>70</sup> Penn's interest in the founding of schools seems not to have been confined to America. Thomas Lawson wrote to John Rodes in 1691 that some years earlier Penn and Fox had been considering the purchase of some land near London "for the use of a garden school-house and a dwelling-house for the master, in which garden one or two or more of each sort of our English plants were to be planted, as also many outlandish plants."<sup>71</sup> Like other idealists concerned with the improvement of society, William Penn recognized clearly the great importance of education.

In spite of pressing public and political concerns which left him little leisure and in spite of the obligation which he felt to use much of that leisure in the discussion by tract and sermon of Quaker theology, Penn was a lover of home life. His theory of the family followed, on the whole, the patriarchal conception of the Old Testament. In details he departed from such standards.

<sup>67</sup> *Col. Rec.*, I, 91 (entry for Dec. 26, 1683).

<sup>68</sup> Penn to Thomas Lloyd, Markham, etc., Aug. 7, 1685, Dreer Collection—William Penn's Letters, p. 13.

<sup>69</sup> Kelsey, "William Penn," *Dictionary of American Biography*, XIV, 436; Jernegan, *op. cit.*, p. 238, Channing, *A History of the United States*, II, 465-466; Wickersham, *op. cit.*, pp. 41-50; Janney, *op. cit.*, pp. 347-348. Channing and Janney set 1697 as the date of the founding of the Penn Charter School. Kelsey says that the school opened in 1689.

<sup>70</sup> Wickersham, *op. cit.*, p. 42. The master of the Episcopalian school in Philadelphia, one I. Arrowsmith, found the chartering of the free school by the Quakers in 1697 a great hardship. Writing to Governor Nicholson of Virginia in 1698, he declared that the establishment of that institution "is in effect to blast my endeavors." *Ibid.*, p. 96.

<sup>71</sup> Lawson to Rodes, Jan. 18, 1691, *A Quaker Post-Bag*, edited by Mrs. Locker-Lampson, pp. 20-21.

Though he adhered to the dominant school of Quakerism with reference to the place of women in the church and though he supported legislation in his province guaranteeing to them some rights, he did not believe in sex equality. There is some evidence that he accepted the single standard of morals for both sexes.

He advocated early marriage and large families. He attempted during his first sojourn in Pennsylvania to require young men to marry. Later, when he found that the secret unions of minors and, especially of indentured servants, worked injury to the parents and masters, he took energetic steps to prevent clandestine marriages. This policy seems to have been dictated largely by the conviction that minors and servants were property.

Penn shared the distrust of his sect with regard to vain learning and rejoiced that a cultivated intellect was no necessary concomitant of the godly life.<sup>72</sup> For the so-called higher learning he had no use. Otherwise, however, he held views on education which were far in advance of his time. He believed in endowed schools in which the children of the poor were to receive their education at public expense. He highly recommended vocational training and nature study. Like more modern statesmen, he believed that future citizens of the state should be educated explicitly for citizenship.

<sup>72</sup> Hull, *William Penn: A Topical Biography*, p. 106.

## Chapter XI

### FRIEND OF THE INDIANS<sup>1</sup>

*Now this great God hath been pleased to make me concerned in your parts of the world; and the king of the country where I live hath given unto me a great province therein, but I desire to enjoy it with your love and consent, that we may always live together as neighbors and friends ...*

*Thus they are the worse for those they should have been the better for, and thus they are not so dark as not to see, and say. So that the low dispensation of the poor Indian out-shines the lives of those Christians, that pretend an higher.*

—WILLIAM PENN

WILLIAM PENN'S relations with the Indians have won general and lasting approval.<sup>2</sup> His dealings with them were certainly influenced by considerations of policy, but more important factors were the Christian doctrine of human brotherhood and the Quaker ideal of pacifism.<sup>3</sup> Penn believed in treating

<sup>1</sup> Penn was known to the Iroquois as Onas, their word for a feather or a quill. The Delawares called him Miquon, a term which to them implied a pen. They referred to him as "the great and good Miquon." Heckewelder, *History, Manners, and Customs of the Indian Nations*, pp. 66, 78, 142. The Indians whom Penn probably knew best were the Delawares. He once wrote of meetings which he had had with "the Shaweno [Shawnee], Susquehannah, Skuykill [sic] and Delaware Indians." Penn to the Board of Trade, July 2, 1701, Letter Book, 1699-1701, p. 108. He also made treaties with the Conestoga Indians, "survivors of the defeated ancient Susquehannas or Minquas of Iroquoian stock." Pennsylvania Historical Commission, *Fourth Report* (1926), p. 33. See also *William Penn: His Own Account of the Lenni Lenape or Delaware Indians, 1683*, edited by Myers.

<sup>2</sup> Voltaire's famous encomium of Penn's treaty with the Indians, "C'est le seul traité entre ces peuples et les chrétiens qui n'ait point été juré et qui n'ait point été rompu," appears in the *Dictionnaire philosophique*, VIII, 415. Macaulay, whose hostility toward Penn is well known, wrote with commendation of the Quaker's dealings with the natives. *The History of England from the Accession of James the Second*, II, 95-96. See also such later writers as Benians, "The Colonies and India," *The Cambridge Modern History*, V, 692; Shepherd, *History of Proprietary Government in Pennsylvania*, pp. 95-96; Andrews, *Colonial Self-Government*, pp. 188-189; Osgood, *The American Colonies in the Seventeenth Century*, II, 404-405; Channing, *A History of the United States*, II, 113-115; Jernegan, *The American Colonies*, p. 230. Shepherd calls Penn's purpose "lofty" but "mistaken."

<sup>3</sup> See the letter of Penn and others to Hartshorne, printed in Samuel Smith, *The History of New Jersey*, pp. 80-82. Penn's ventures into colonial and foreign policy are described above in chap. iv. Compare *Peace of Europe*, pp. 277-292.



the natives with entire justice. He consequently exhibited in his Indian policies honesty and humaneness far in advance of his day.

The fullest exposition of his ideas concerning the natives appears in the "Description of Pennsylvania," sent as a letter to the Free Society of Traders, under date of August 16, 1683.<sup>4</sup> This account describes in detail, somewhat in the manner of Tacitus, the "persons, language, manners, religion, and government..." of the American aborigines. Penn thought that they might have sprung from the Hebrew nation: "For their original, I am ready to believe them of the Jewish race; I mean of the stock of the Ten Tribes." He found in them some physical resemblances to the Hebrews: "their eye is little and black, not unlike a straight-looking Jew." They were "of like countenance and their children of so lively a resemblance, that a man would think himself in Duke's-place or Bury-street in London, when he seeth them." Their language, like the Hebrew, was "in signification full." He concluded his discussion of the Indians with other reasons for noting resemblances, if not identity, between them and the Ten Tribes of Israel, for "they agree in rites, they reckon by moons; they offer their first-fruits, they have a kind of feast of tabernacles; they are said to lay their altar upon twelve stones; their mourning a year, customs of women, with many things that do not now occur."<sup>5</sup>

As Tacitus found much in the civilization of the ancient Germans to commend to his fellow Romans, so Penn saw much in the life of the American Indians to admire and praise. Having some acquaintance with their language, he wrote: "I must say that I know not a language spoken in Europe that hath words of more sweetness or greatness, in accent or emphasis, than theirs..."

<sup>4</sup> "Incomplete draft, Aug 16, 1683," in the library of the Historical Society of Pennsylvania. See also Hazard, editor, *The Register of Pennsylvania*, Vol. I, No. 28, pp. 433-437. For the general reader this document is most accessible in *Old South Leaflets*, Vol. VII, No. 171, pp. 377-392. Penn wrote another description of the Indians in a letter to Savell, July 30, 1683, Society Collection. It is in general, sometimes almost verbal, agreement with his longer description in the letter to the Free Society of Traders. See also *William Penn: His Own Account of the Lenni Lenape or Delaware Indians, 1683*, edited by Myers. A briefer account of the Indians is in Penn's letter to Boyle, Aug. 5, 1683, printed in Boyle, *Works*, VI, 658-659.

<sup>5</sup> *Old South Leaflets*, Vol. VII, No. 171, pp. 381-387. Penn explained that he had made it his business to understand the Indian language "that I might not want an interpreter on any occasion."

Their diet was not unfit for Europeans: "they also make cakes, not unpleasant to eat: they have likewise several sorts of beans and pease that are good nourishment." He praised their hospitality and liberality. He found in their primitive simplicity of life something to be contrasted favorably with the civilization for which he was writing. The Indians were lovers of justice: "do not abuse them but let them have justice, and you win them." As an eyewitness, he described their procedure in council, and he considered it "admirable . . . how powerful the kings are, and yet how they move by the breath of their people." Here was an idyllic forest democracy not without resemblance to that described by the Roman.

Penn thought the Indians benighted in their religion but by no means hopeless. "These poor people," he wrote, "are under a dark night in things relating to religion, to be sure the tradition of it; yet they believe a God and immortality, without the help of metaphysics. . . ." He was much interested in the religious ceremonies of the natives, which he thought performed with "marvellous fervency and labor of body . . . but great appearance of joy." Throughout the entire discussion he gave no indication of disapproval or condemnation of their unchristian rites. His words evince no missionary zeal, much less the vehemence that characterizes his polemics in behalf of Quakerism or of religious toleration in England. His tone is that rather of the scientific observer than of the religionist.

According to the royal Charter conveying his province to Penn, one of his purposes was "to reduce the savage natives, by just and gentle manners, to the love of civil society and Christian religion. . . ."<sup>6</sup> That the Quakers were not averse on principle to proselyte among the red men is shown by the preaching of Fox to the Indians in North Carolina in 1672.<sup>7</sup> The Founder himself made some attempts to preach to the natives. Roger Longworth reported that in the summer of 1683 "six Indian kings" had accompanied him and Penn to some religious exercises; "and the word of the Lord," he wrote, "arose in my heart towards them,

<sup>6</sup> Hazard, *Annals of Pennsylvania*, p. 488.

<sup>7</sup> Fox, *The Journal of George Fox*, pp. 300-301. Fox preached to the Indians through an interpreter.

and they remained most of the time of the meeting.”<sup>8</sup> In 1699 Penn planned to teach the natives through interpreters. After lamenting to Harley, probably in 1701, the vices the Indians had learned of the Europeans, Penn expressed the wish that “we may be able to retrieve them.”<sup>9</sup> Economic motives as well as religious zeal may have entered into Penn’s desire to convert the Indians to Christianity. He called the attention of the council in 1701 to “the great abuses committed in Indian trade, the great dangers that might arise from thence, and the advantages that might accrue from it to the province in general.” He indicated his dissatisfaction that two Frenchmen had been trading with the neighboring Indians. The council, thereupon, resolved to prohibit these foreigners from dealing with the natives and declared further: “That some way should be agreed on, to carry on that trade by a certain number or company, who should take all measures to induce the Indians to a true value and esteem for the Christian religion, by setting before them good examples of probity and candor, both in commerce and behavior, and that care should be taken to have them duly instructed in the fundamentals of Christianity. . . .”<sup>10</sup> No great success attended Penn’s efforts to convert the Indians, perhaps because, as Osgood says, “the Quakers were indifferent on this point.”<sup>11</sup> The conversion of the Indians in Pennsylvania was a task not seriously attempted until the time of the Moravians in the following century.

Aside from the sympathetic comments with reference to their lack of complete religious enlightenment, Penn made few adverse characterizations of Indian life in his “Description of Pennsylvania.” He pointed out that girls helped “to hoe the ground, plant corn, and carry burdens”; but if he found that practice exceptionable, he did not so indicate. In fact, he said that the Indians did well “to use them to that young, which they must do when they are old; for the wives are the true servants of the husbands. . . .” He noted that the red men were “great concealers of their own

<sup>8</sup> Hull, *William Penn and the Dutch Quaker Migration to Pennsylvania*, p. 365.

<sup>9</sup> Hist. MSS Com., *15th Report*, App., Part IV, *Portland MSS*, p. 32.

<sup>10</sup> *Col. Rec.*, II, 18-19 (entry for May 17, 1701).

<sup>11</sup> Osgood, *op. cit.*, p. 415. Some Indians, however, were converted to the doctrines of Quakerism. Sharpless, *A Quaker Experiment*, Part I, p. 158, states that in 1902 there was a band of Quaker Indians in what was then Indian Territory.

resentments" and much given to the practice of revenge; "in either of these they are not exceeded by the Italians." He mentioned the report that some of the women "take undue liberty before marriage"; but he saw compensation for such practices in the chastity observed afterward. The only vice to be condemned in the Indians was drunkenness, and for that he blamed the Europeans. Since the coming of the white man, he wrote, "they [the Indians] are grown great lovers of strong liquors, rum especially; and for it exchange the richest of their skins and furs."<sup>12</sup> When they were drunk, they seemed to him, "one of the most wretched spectacles in the world."

The saddest note in Penn's account of the Indians is in his reflections upon the evil effects worked upon them by the Christians. "The worst is," he wrote, "that they are the worse for the Christians, who have propagated their vices and yielded them tradition for ill, and not for good, things." He thought it most unfortunate that the Christians "with all their pretensions to an higher manifestation" should have offered to the unschooled savage so poor an example. He believed the Indians possessed of a sufficiently strong sense of "good and evil" to respond well to good examples. In closing this section of his account, the only one in the entire description where Penn abandoned the mood of the scientific observer for the role (so much more usual to him) of the moralist, he besought the Divinity

to incline the hearts of all that come into these parts to outlive the knowledge of the natives, by a fixed obedience to their greater knowledge of the will of God; for it were miserable indeed for us to fall under the just censure of the poor Indian conscience, while we make profession of things so far transcending.

Before he left England on the first voyage to Pennsylvania, Penn wrote three letters to the Indians.<sup>13</sup> He opened each in a religious

<sup>12</sup> Penn wrote the Earl of Sunderland that "the Dutch, Swedes, and English learned them [the Indians] drunkenness (in which condition they kill or burn one another)." Hist. Soc. of Pa., *Memoirs*, Vol. II, Part I, pp. 246-247. He made the same accusation in the letter to Boyle previously cited in note 3 of this chapter.

<sup>13</sup> Penn's first letter to the Indians, dated Oct. 18, 1681, is preserved in the Penn-Forbes Collection, I, 48. A copy is in the Dreer Collection—William Penn's Letters, p. 6. A facsimile of Penn's second letter, of April 21, 1682, read to the natives through an interpreter by Thomas Holmes, is in the MS Division of the library of the Historical Society of Pennsylvania. The first, second, and third letters (the third bearing the date of June 21, 1682) are printed in the Hist. Soc. of Pa., *Memoirs*,

strain. He clearly assumed the natives capable of belief in a Higher Power and possessed of sufficient understanding to appreciate appeals on religious grounds. His introductory remarks were always very conciliatory, couched in language of extreme friendliness. There is in none of the letters the faintest suggestion that the whites were coming to Christianize the Indians or to attempt in any way to reform them. The writer apparently took for granted that his simple theology would awaken sympathy for him in the minds of his correspondents.

He then passed to the relations between the whites and the natives. In two of these letters he expressed his appreciation of the fact that the whites had frequently been guilty of "unkindness and injustice" towards the natives. He promised to prevent his people from wronging the Indians and expressed the hope "that we may always live together as neighbors and friends, else what would the great God say to us, who hath made us not to devour and destroy one another [*sic*] but live soberly and kindly together in the world." For wrongs committed against them by the whites, he offered to the Indians satisfaction, as awarded by a jury of "an equal number of just men on both sides," red and white. In his first letter he stated that he had sent his commissioners to treat with the Indians "about land and a firm league of peace." In the third, addressing the "Emperor of Canada" as the principal chief of the northern Indians, he vouched for his colonists as "just, plain and honest people, that neither make war upon others, nor fear war from others, because they will be just." He indicated that the president of the Society of Traders in Pennsylvania would open negotiations for trading privileges with the natives and he hoped that the latter would "comply with his desires on our behalf, both with respect to land and trade."

Penn's insistence upon fundamental justice seems to have given him precisely the best basis for an appeal to the primitive nature of the Indians. Whether or not his policies toward them were always actually just,<sup>14</sup> the high esteem in which they held him

VI, 251-253. The first and third letters are also printed in Hazard, *Annals of Pennsylvania*, pp. 532-533, 579.

<sup>14</sup> The question as to whether lands purchased from the Indians for trinkets worth very little to the purchaser could have been fairly paid for is academic. Penn once expressed his opinion that some land had been bought from the Indians

and the generally peaceful relations between the red men and the white in early Pennsylvania would argue that the natives had confidence in his integrity.<sup>15</sup> Penn's letters to the Indians, moreover, reveal another element in his attitude toward them—namely, a decided paternalism. His words read like the advice of a kind and indulgent father to his children.<sup>16</sup>

On April 23, 1701, Penn agreed with the chiefs of various Indian nations upon a treaty, an examination of which throws additional light upon his philosophy concerning the natives.<sup>17</sup> This agreement, certainly drafted or dictated by Penn, is not a treaty between the people of Pennsylvania and the Indians. It is an arrangement between the Founder on the one hand and certain Indian chiefs and the Emperor of the nations of Indians living about the Susquehanna and "the northern part of the river Potomac."<sup>18</sup> Penn assumed the right to bind not only himself, his heirs and assigns, but also the people of Pennsylvania. He assumed, moreover, the power of the "Emperor" to control the actions of the various Indian groups thought to be subject to his

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"at dear rates." See Penn to William Popple [?], July 2, 1707, B.T.P., IX, P. 8. The honest conduct of trade between Indians and whites seems just and reasonable as an ideal. Differing standards of value as between red men and white and as between Penn's day and this make any satisfactory answer to the question impossible. For an example of such an exchange, see the deed to Penn, dated at New Castle, Oct. 2, 1685. By this instrument certain stretches of land "between the said creeks backwards as far as a man can ride in ten days with a horse" were bought of the Indians for guns, blankets, kettles, powder, lead, tomahawks, knives, wampum, glass bottles, pewter spoons, etc.

<sup>15</sup> Shepherd, *op. cit.*, p. 95, says: "... it is well known how the Indians revered Onas (a pen) as they called him, and many a year passed before the recollections of his friendship faded from their memory, and his name ceased to be repeated around the council fire." Compare Clarkson, *Memoirs of the Private and Public Life of William Penn*, II, 445-449, and Janney, *The Life of William Penn*, pp. 546-547.

<sup>16</sup> At the time he wrote these letters, Penn was several years under forty. The fact that age, or the lack of it, had no appreciable effect upon his ability and willingness to proffer words of wisdom and advice may be explained, in part no doubt, by his deep religious conviction. For an example of the young Penn as spiritual mentor for a lady quite old enough to have been his grandmother, see passages in the *Journal of His Travels in Holland and Germany in 1677*. The theological treatise, *No Cross, No Crown*, first written in prison when Penn was twenty-four years old, has passages which read like the words of a man ripe with age and wisdom.

<sup>17</sup> Much romantic legend has grown up about the treaties of Penn with the Indians. See *William Penn: His Own Account of the Lenni Lenape or Delaware Indians, 1683*, edited by Myers. See also Shepherd, *op. cit.*, chap. vi; and Channing, *op. cit.*, II, 114-115.

<sup>18</sup> Logan Papers, XI, Indian Affairs, p. 3; *Col. Rec.*, II, 9-11.

jurisdiction. The treaty was essentially a bargain between a sovereign—or, at least, a viceroy—and another sovereign. The Indians were thus regarded as members of a nation at the head of which was a ruler vested with the political power of negotiating binding treaties. All of these assumptions, of course, were highly questionable.

Penn bound the Indians by this treaty not only to live peaceably with the inhabitants of Pennsylvania but also to follow a consistent policy with reference to foreign groups, red men or white. The treaty provided that none of the Indians negotiating the agreement, should "at any time be aiding, assisting or abetting any other nation, whether of Indians or others, that shall not at such time be in amity with the Crown of England and with this government [i.e., Pennsylvania]." An even more advanced step for the Quaker pacifist was the obligation which he must have induced the Indians to assume, not to "suffer any strange nations of Indians to settle or plant on the further side of Susquehanna, or about Potomac River, but such as are there already seated, nor bring any other Indians into any part of this province without the special approbation and permission of the said William Penn, his heirs and successors." This arrangement, directed against the French and their native allies, has been discussed earlier as part of Penn's program for the defense of the English colonies. It operated to minimize the possibility that the Quakers in Pennsylvania would be forced into an Indian war, but it must have been clear that such a bargain would not guarantee peace. How the contracting Indian chiefs could have prevented a determined incursion of "strange nations" without the ultimate use of force is a problem which could not have escaped Penn. Nevertheless, as is well known, whether the cause be accidental or calculated, the Pennsylvanians were long spared the horrors of Indian warfare.

The red men, finally, bound themselves to conduct no trade with any person not approved by Penn or his successors. He agreed, in return for this monopoly, to prevent unlicensed traders from having commerce with the natives. One important motive for this provision was probably Penn's concern about the sale of liquor to the savages.

Nearly three weeks before the date of the first letter to the

Indians, Penn drew up a set of instructions to some "commissioners for the settling of the present colony this year transported into the said province" of Pennsylvania.<sup>19</sup> These deputies were authorized to purchase land but not necessarily from the Indians alone. The ninth instruction dealt with the Indian lands and illustrates well Penn's theories of treating with the natives. He clearly felt that without the intervention of contrary-minded Europeans he could induce these primitive peoples to do his will. He urged the commissioners to "be tender of offending the Indians, and hearken by honest spies if you can hear that any body inveigles the Indians not to sell or to stand off and raise the value upon you." This ninth instruction throws light on the technique followed in Penn's first letter to the Indians, for he went on to advise his agents as follows:

But to soften them [the Indians] to me and the people, let them know that you are come to sit down lovingly among them. Let my letter and conditions with my purchasers about just dealing with them be read in their tongue, that they may see we have their good in our eye equal with our own interest; and after reading my letter and the said conditions, then present their kings with what I send them and make a friendship and league with them according to those conditions, which carefully observe, and get them to comply with you. Be grave; they love not to be smiled on.

Penn's Indian policy was evidently not wholly compounded of disinterestedness and benevolence. It seems clear that he supposed the wisest method of dealing with the savages was also that which would appear to a Christian and a Quaker as the most ethical way. In the tenth instruction he directed the commissioners "from time to time in my name and for my use buy land of them [the Indians], where any justly pretend, for they will sell one another's if you be not careful." Penn plainly attributed at this time no very mature ideas of ownership to the aboriginal Americans. His subsequent relations with them evidently corrected his earlier view; otherwise he could hardly have expected to make binding arrangements with them.

<sup>19</sup> Hist. Soc. of Pa., *Memoirs*, Vol. II, Part I, pp. 215-221.



Penn repeatedly bought land of the Indians either directly or through agents. He wrote to Thomas Lloyd in 1686 instructing the latter to "let the western bounds be fixed with the natives" and hoping that "the goods left at New York were used to good advance in the Indian purchases . . ." <sup>20</sup> In preparing certain "proposals for a second settlement" in Pennsylvania in 1690, he stipulated that the ground upon which "another city" should be built "shall be delivered clear of all Indian pretentions, for it has been my way from the first to purchase their title from them and so settle with their consent." <sup>21</sup> Penn empowered Turner and others in 1692 to purchase lands from the Indians, and at the same time, with some appearance of inconsistency, he authorized them to exercise those powers belonging to "the royalties of a proprietaryship, which is the seigniori or lordship of the whole soil according to grant." <sup>22</sup>

Penn bought land from the Indians on the apparent assumption that the land was theirs to sell. He recognized the right of the natives to set their own prices for the soil and on at least one occasion he prudently took steps to buy in anticipation of a rise in prices.<sup>23</sup> At the outset, as indicated in the letters to the Indians, he determined to negotiate with them for the land he needed. This policy, of course, was neither original with Penn nor exclusively practiced by him; it was common among the early English and Dutch colonizers.<sup>24</sup> It is difficult to reconcile Penn's feeling

<sup>20</sup> Penn to Lloyd, April 21, 1686, Penn MSS, X, Dom. & Misc. Letters, p. 83.

<sup>21</sup> This document was printed as a broadside under the title of "Some Proposals for a Second Settlement, 1690" A facsimile of it is preserved in the MS division of the library of the Historical Society of Pennsylvania.

<sup>22</sup> Penn-Forbes Collection, I, 50. The draft is dated July 22, 1692

<sup>23</sup> Writing to Richard Hartshorne to empower him, James Wasse, and Richard Guy to buy from the natives a tract of land upon which to build a town, Penn and his associates charged their correspondent: "This we would not have neglected; for we know, and you that are there know, that if the land be not taken up before the spring, that many people come over there, the natives will insist on high demands, and so we shall suffer by buying at dear rates, and our friends that cometh over be at great trouble and charges until a place be bought and divided. . . ." This letter is printed in Samuel Smith, *The History of New Jersey*, pp. 80-83.

<sup>24</sup> Claiborne bought Palmer's Island in the Chesapeake from the Indians. Osgood, *op. cit.*, III, 96. The law of 1658 in Virginia provided for the sale of lands by the Indians in the quarter courts. *Ibid.*, p. 260. In 1630 the Indians sold land on Dela-

that the Indians had rights in the land with his consciousness of his own lordship of the soil. In the first letter to them he stated that "the King of the country where I live hath given unto me a great province" in America. If he intended by this remark to claim for the Crown the authority to grant American lands, he could hardly also have assumed for the Indians an unclouded title to their territories. Certainly they would then have no unlimited right to do what they wished with their land. Penn followed this statement with the innocuous declaration that he desired to enjoy the new country with the natives' "love and consent." What would have happened had such consent been withheld does not appear. A race less naïve than the simple savages with whom he dealt might well have objected to living "together as neighbors and friends" with strangers who claimed their land on the grant of a monarch of whom the original owners had never heard.

Penn obviously did not intend to defraud the natives, but a clear idea of the rights conveyed by charter in relation to the rights of the original possessors (if such he thought the aborigines) does not appear in his writings. In the view that he should purchase the land from the Indians he agreed with Roger Williams, but that he would have accepted the latter's logical conclusions as to the whole matter is doubtful. To Williams the true owners of the soil were the natives, and neither white man's claim nor royal charter could affect that fact.<sup>25</sup> Penn might perhaps have rationalized the situation as did the Reverend John Higginson of Salem in the controversy there over the validity of Indian titles. This gentleman declared that, "so far as I understood, we received only the right and power of Government from the King's Charter . . . but the right of the Land and Soil we had received from God according to his Grand Charter to the Sons of Adam and Noah, and with the consent of the Native Inhabitants."<sup>26</sup> Perhaps Penn considered that the King's Charter alone gave him lawful and sufficient title; but that reasons both of humanity and policy (rather than of strict

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ware Bay to the Heer Samuel Godyn. The next year Godyn with Bloemnaert bought more territory from the Indians. Hazard, *Annals of Pennsylvania*, pp. 23, 26. See also Jernegan, *op. cit.*, p. 159.

<sup>25</sup> Ernst, *Roger Williams*, p. 158, note 2.

<sup>26</sup> *Andros Tracts*, I, 90, 124, cited in Osgood, *op. cit.*, III, 408-409

underlying his treaties with the Indians, negotiated as with sovereign or semisovereign states.

Five of the twenty articles published by Penn in July, 1681, as certain Conditions and Concessions were evidently designed to protect the Indians. Buying and selling were to be restricted to public markets, and the sale of "bad ware" was penalized. Article XII provided that goods traded to the Indians for their furs should be tested in the market place so "that the natives may not be abused nor provoked." The following article guaranteed to the Indians that wrongs or affronts offered to them should be punished by the same penalties as those invoked against similar offenders injuring white men. A planter who thought himself wronged by an Indian was not to take justice into his own hands; he was to report the circumstances to the provincial government so that the latter might discuss the question with the chief of the tribe to which the supposed offender belonged. Article XIV contained the famous arrangement for a mixed jury to settle "differences between the planters and the natives," a provision included five years earlier in the instrument of government for West Jersey.<sup>81</sup> Article XV provided that "the Indians shall have liberty to do all things relating to improvement of their grounds and providing sustenance for their families that any of the planters shall enjoy." Available evidence does not establish beyond question that all of the ideas expressed in this document originated in the mind of Penn, but the provisions relating to the Indians are quite in harmony with the theories to which he gave voice on other occasions. Almost certainly, even if he did not suggest every item in this Indian policy, he accepted it in principle.

Another paternalistic regulation, reminiscent of Penn's views set forth in the "Description of Pennsylvania," appears in Article XVII of the Great Law of December 7, 1682. This article forbade the sale of liquor to the Indians. Like more recent attempts to control men's appetites by law, this prohibition did not meet with complete success. A bill was read early in 1684 in the provincial council providing "that it should be left to the governor and provincial council to discourse with the Indians concerning an agree-

<sup>81</sup> Hazard, *Annals of Pennsylvania*, p. 519.

ment with them about letting them have rum." A month and a half later the governor informed the council that he had "proposed to them [the Indians] to let them have rum if they would be contented to be punished as the English were; which they did agree to, provided that the law of not selling them rum be abolished." Penn had evidently found a weak spot in his paternalistic scheme. The assembly, seven days later, desired "to know whether they have not liberty to disallow of the old laws if they think fit." The first law listed was that "prohibiting rum to the Indians." Some weeks thereafter, as part of a general attempt "to suppress lewdness and all manner of wickedness," Penn proposed "an act of state to suppress selling rum to the Indians in such quantities." <sup>32</sup> During his second sojourn in America the question arose again. In May, 1701, he and the council decided to prohibit the sale of rum to all the Indians except the chiefs, to whom the whites might sell it for distribution among the members of the tribes as the chiefs saw fit. In the following July the governor and council decided to call in certain Indians to confer "about passing a law for prohibiting all use of rum to the Indians of their nations." <sup>33</sup> With the failure of paternalistic prohibition, Penn turned to government "by the consent of the governed."

An interesting argument arose between Penn and the assembly in October, 1701, when a new law against the sale of liquor to the natives was under consideration. The issue was whether the Indians should be allowed to testify in the enforcement of the prohibitory act. The assembly contended that, since the Indians were not Christians, they were under no obligation to tell the truth. Penn replied that although that argument be allowed, the natives might be constrained to give reliable testimony "through the terror of some punishment to be inflicted on their giving false evidence." <sup>34</sup> As finally passed, the law contained the provision "that the evidence of one professed Christian, with other probable circumstances, to the satisfaction of the court and jury, shall be suf-

<sup>32</sup> *Col. Rec.*, I, 98, 105, 109, 116 (entries for March 26, May 10, May 17, and July 25, 1684).

<sup>33</sup> *Ibid.*, II, 26 (entry for July 26, 1701).

<sup>34</sup> *Ibid.*, p. 50 (entry for Oct. 10, 1701).

ficient to convict the offenders herein." It enacted a complete prohibition upon the sale, barter, gift, or exchange of liquors to the Indians.<sup>35</sup> Penn's paternalistic policy, therefore, eventually triumphed, and the Indians were restrained by law from falling into temptation.

Penn used the two stock arguments of paternalists to justify his policy. In this case the moralistic argument was the generalization that drunkenness was an evil degrading to its victims and that the helpless natives should be shielded from it. The pragmatic argument was that the peace and welfare of the colonists would be endangered if the savages were given unrestrained access to liquor. Penn's policy in this, as in other matters, was a complex of ethical and practical considerations.<sup>36</sup>

Though he used the mailed fist rarely, if ever, in his own dealings with the Indians, the Founder was not unaware of the possible advantages of severe methods and perhaps even of their occasional necessity. He advised Thomas Holmes in 1685 that a policy compounded of justice and firmness was expedient: "if they [the Indians] are rude and unruly, you must make them keep their word by just courses. If they see you use them severely when rogueish, and kindly, when just, they will demean themselves accordingly." Further, in the same letter, speaking of the doings of "Tamine," whom he thought the Indians should chastise, he wrote: "If the Indians will not punish him, we will and must, for they must never see you afraid of executing the justice they ought to do." <sup>37</sup> What Penn's severe usage would have been is not known. He evidently shared the common belief that in dealing with primitive natures the two virtues of entire justice and absolute courage are essential.

<sup>35</sup> *The Acts of Assembly of Pennsylvania*, pp. 20-21, chap. x, "An Act against Selling Rum and Other Strong Liquors to the Indians."

<sup>36</sup> There is no evidence that Penn objected to supplying the natives with fire-arms, but his neighbor to the south did. When Penn's petition for the grant of Pennsylvania became public, Lord Baltimore's agents wrote to Blathwayt on the subject. In their letter they said "On behalf of the public it is suggested that due precautions be taken that no arms or ammunition shall be sold to the Indians or natives by any settlers in the new plantation [i.e. Pennsylvania] whereby a common mischief may happen to all the King's plantations." Dunch and Burke to Blathwayt, *C.S.P.*, X (1677-1680), 554 (entry No. 1404, for June 23, 1680).

<sup>37</sup> Penn to Holmes, Aug. 8, 1685, New York City Public Library MSS Division, Miscellaneous Papers.

It has been pointed out earlier that in his general Indian policy Penn believed in the maxim *Divide et impera*. He urged that each Indian group be placed under the jurisdiction of the English government controlling the territory in which the group dwelt. He sought also, it will be recalled, to have the savages seek the arbitration of the English authorities to settle their quarrels without bloodshed. To persuade the Indians to these commendable courses it was advisable to bribe them generously with presents, as well as to use every endeavor toward both checking and punishing greed and folly in Indian relations.<sup>38</sup>

When Penn left his province on his final voyage to England, he received what might be called a testimonial from some of the Indian chiefs. This document praised the departing proprietor as having been "not only always just but very kind to us as well as our ancient kings and sachems deceased." They mentioned his liberality, his hospitality in entertaining them, his justice in preventing the whites from wronging them, and his fairness in paying for their lands, "which no governor ever did before him." Then, interestingly enough, the document expressed the hope that the King in England might leave the government of the province to Penn and his children, the very result, of course, which Penn was hoping to insure by his return to England.<sup>39</sup> There is no record that he used this expression of the Indians to support his case against the vacation of the Charter. If he had so used it, one who, like Franklin, thought him both subtle and naïve might have wondered whether this testimonial from the natives was wholly spontaneous or whether it was "inspired."

<sup>38</sup> In a letter to Holmes Penn wrote: "The vast number of matchcoats and other things, as shirts, stockings, etc. that I have given Sicotickan and his family over and above should compel them to a better and easier compliance." New York City Public Library MSS Division, Miscellaneous Papers. In a letter to Bellomont, July 4, 1700, Penn advised that "seasonable presents be made them [the Indians]." Letter Book, 1699-1701, p. 38. To the Board of Trade he reported that he had used "many presents to persuade their submission to the government and not to war one with another and other Indians under governments that are under the Crown of England." Penn to the Board of Trade, July 2, 1701, Letter Book, 1699-1701, p. 108.

<sup>39</sup> The original of this document is not available. The citation in the text is from a copy which seems to be in the handwriting of James Logan. It is undated, but the paper must have been written in the fall of 1701 after Penn had announced his prospective departure for England. The copy is in Penn-Forbes Collection, I, 16.

Penn's policy with regard to the Indians was successful, whatever the basis of his philosophy about them. The sources of his early knowledge of the red men are unknown. Some of his opinions were put into writing before he could have seen any Indians in their natural environment. Perhaps he learned some things about them from George Fox. It is evident that his generally happy relations with them were the product of an extensive acquaintance with their habits and customs and their psychology. At his death, seventeen years after he had left forever all direct contact with the Indians, they themselves supplied the final testimony of their high esteem in a touching tribute which they sent to Hannah Penn, the widow of Onas, their friend.<sup>40</sup>

<sup>40</sup> Webb, *The Penns & Peningtons*, pp. 416-417.

## Chapter XII

### HUMANITARIAN

*Mankind by nature fears power and melts at goodness.*

*And you that are poor, murmur not; but be patient and trust in the Lord and submit to his providence, and He will provide for you that which is convenient for the days of your appointed time And you that are rich, keep in the moderation and strive not to multiply earthly treasure nor to heap up uncertain riches to yourselves, but what God hath given you more than is convenient for your own use wait for his wisdom to employ it for his glory that you may be faithful stewards of this world's mammon; and the Lord God shall reward you into your bosoms of the riches of that kingdom that shall never have an end.*

*... be kind to strangers, especially the poorer sort, so all be most inoffensive and helpful.*

—WILLIAM PENN

WILLIAM PENN did not believe in the doctrine of human perfectibility. He repeatedly expressed a skepticism with regard to the inherent virtue of man, which would disappoint the democratic sentimentalist. In the *Brief Account of the Rise and Progress of the People Called Quakers* he defined the Friends' doctrine on the state of perfection, complete freedom from sin. Such a state he thought inconceivable in this wicked world. According to him the teaching of his sect on this subject, "the end of Christ's coming," was: "To be perfect as our heavenly Father is perfect, and holy, because God is holy . . . but they [the Friends] never held a perfection in wisdom and glory in this life or from the natural infirmities or death, as some have, with a weak or ill mind, imagined and insinuated against them."<sup>1</sup> It has been noted earlier

<sup>1</sup> *Works*, I, 867. Compare also Penn's "Key, Opening the Way to Every Capacity," *Works*, II, 781. Yet in his personal relations Penn was singularly trustful of his fellows. On several occasions he permitted himself to be deceived by men of base motives and by disloyal and dishonest subordinates. With one or two exceptions his choices for deputy governor of Pennsylvania were unfortunate. Sharpless, *Political Leaders of Provincial Pennsylvania*, pp. 21-23; Best, *Rebel Saints*, pp. 179-192; Hirst, *The Quakers in Peace and War*, pp. 154-155. See also Proud, *The History of Pennsylvania*, I, 45-46.



that he believed governmental compulsion necessary to constrain depraved human beings "to do what they know is right and fit."

At times Penn advised his fellow men to submit to those exercising lawful power, even as Saint Paul counselled the Christians in Rome. The Quaker recommended in his *Fruits of Solitude*, as in the letter to his wife and children, the virtue of obedience to constituted authority.<sup>2</sup> He thought a magistrate acting legally a person to be obeyed, though his refusal to attribute political omnipotence to the state leaves somewhat uncertain the precise meaning of such an assertion. Its significance obviously depends upon the interpretation of legality. Abstractly, there is no doubt that Penn believed in the possibility of a legally constituted hierarchy which would confer upon some individuals within the state an authority to which others must accord obedience. He believed also in the existence of social classes and frequently advised a course of conduct on the plain assumption that among human beings there are superiors and inferiors.<sup>3</sup>

Yet his attitude toward the administration of justice was quite equalitarian. In his eyes all men were equal before the law. Even when he counselled obedience to the powers that be, he refused, like other members of his sect, to recognize certain differences in rank, significant distinctions to most men but to him mere formalisms. All men, too, were equal before God, and each individual possessed the right to live his own life to the fullest. Penn did not believe literally that "all men are created equal"; but he did accept the theory that all men should have equal opportunity to realize their unequal potentialities.<sup>4</sup> In this position he resembles the liberals of the twentieth century.

Penn's paternalistic attitude toward other races, notably the enslaved Negroes and the American Indians, has been treated earlier. His dealings with both groups indicate plainly that he did not think either race socially or intellectually equal to the whites. He accepted, in the case of the black man, the institution of slavery; but he acted, with reference to the red man, upon the theory that

<sup>2</sup> *Fruits of Solitude*, pp. 45-46, 48, 62-67; *Works*, I, 906-907.

<sup>3</sup> "A Key, Opening the Way to Every Capacity," *Works*, II, 787-790; *Peace of Europe*, pp. 9-10.

<sup>4</sup> "Fundamentall Constitutions," *The Pennsylvania Magazine of History and Biography*, XX (1896), 283-301; *Fruits of Solitude*, pp. 126-127.

racial inequality conferred upon the more highly favored race no right to exploit the other. He thought that the Christian whites had obligations toward the more backward peoples, but that type of obligation existed without reference to race, color, or creed. He seems to have thought that racial inequality was fixed by divine decree.

His attitude toward women and the equality or inequality of the sexes was a mixture of Biblical patriarchal ideas and Quaker democracy. It has been noted earlier that he recognized the position of the husband and father as the lawful head of the family, and ascribed to him extensive powers of control. On the other hand, he argued for the institution of regular meetings for women to worship in the Quaker way, and he urged their participation in the regulation of marriages and in the supervision of the female members of the church.<sup>5</sup>

Though he shared to some extent the Protestant distrust of the Catholics,<sup>6</sup> his writings exhibit no prejudice against any particular nationality. He did, however, indicate a notable partiality for his English allegiance. Before coming overseas to make their acquaintance he granted security to the Dutch and Swedes who inhabited part of his territories. He desired immigrants from Germany and advertised extensively in the German language to attract settlers from among those who used that tongue.<sup>7</sup> He tried also to induce a French migration.<sup>8</sup> During a large part of his lifetime his countrymen were at war with their neighbors across the Channel; but Penn's extant writings contain no evidence that he felt any hatred toward the national enemy. Even when the French seized his property, his letters betrayed no animosity toward them.<sup>9</sup> Welshmen and Irishmen, particularly those of his own faith, were welcomed to Pennsylvania.<sup>10</sup> The act of union of December 7, 1682, provided a simple process of naturalization for foreigners. Any alien might be naturalized who, within three months of the

<sup>5</sup> Hull, *William Penn. A Topical Biography*, pp. 176-177.

<sup>6</sup> Penn's position with reference to the Catholics is discussed in chap. vi, above.

<sup>7</sup> Hull, *William Penn and the Dutch Quaker Migration to Pennsylvania*, pp. 324 ff., especially pp. 390-392.

<sup>8</sup> Penn to Thomas Lloyd, Oct. 2, 1685, Penn MSS, X, Dom & Misc. Letters, p. 15.

<sup>9</sup> For example, Penn to Logan, Jan. 16, 1704/5, Logan Papers, I, 56.

<sup>10</sup> See Myers, *Immigration of the Irish Quakers*, pp. 53-54.

date of publication of the act, would promise "faith and allegiance unto the King of England and his lawful heirs and successors, and fidelity and lawful obedience to William Penn . . . and his heirs and assigns" and would pay at his admission to citizenship "twenty shillings sterling and no more. . . ." <sup>11</sup> The only European nationality criticized adversely in his extant writings is the Irish. This people he stigmatized, though incidentally and not severely, as unmindful of the rights of property—a characterization which might properly, of course, have been made of other nations similarly placed.<sup>12</sup> Penn's missionary journeys to the Continent furnish additional evidence of his freedom from narrow nationalistic prejudices.

As pietists in other ages have accepted a world of injustice and sin, against which the religious man's chief defense is resignation and the patient hope of a better life beyond the grave, so the Quakers accepted their mundane lot as the will of God. Some of Penn's writings show the influence of this attitude. Others, however, are philosophical reflections upon the state of the world, and some of his conclusions are embodied in a section of the *Fruits of Solitude*.<sup>13</sup> He found inequality to be of divine origin and purpose, for God "has dignified some men above their brethren." The fortunate were not so favored that they might serve "their pleasure, but that they might take pleasure to serve the public." Their wealth was really a divine trust: "for this cause, doubtless, it was that they were raised above necessity or any trouble to live that they might have more time and ability to care for others." When their wealth and position were not used for altruistic purposes, they were embezzlers and wasters.

In true Quaker fashion Penn thought it regrettable that some wealthy men so loved ostentation; "that one man should have such numbers of his fellow-creatures to wait upon him, who have souls to be saved as well as he; and this not for business, but for state. Certainly a poor employment of his money and a worse of their time." Such a condition Penn condemned both on religious and on

<sup>11</sup> Hazard, *Annals of Pennsylvania*, pp. 613-614

<sup>12</sup> Penn to the Lords Justices of Ireland, July 1, 1698, Penn-Forbes Collection, I, 52.

<sup>13</sup> The section is entitled "The Obligations of Great Men to Almighty God."

political grounds. The religious reason must have been the Quaker dislike of vain display and excesses of all kinds. A political ground was the unnecessary power given by such indulgence to the great man at the expense of his fellows. Excesses, remarked Penn, "set ill examples to the lesser world and rob the needy of their pensions."<sup>14</sup> His remedy, as noted elsewhere, was luxury taxes. Wealth was given man to use altruistically; the alternatives were charity or taxation.

Penn's ideas on charity are developed in nineteen separate aphorisms in *Fruits of Solitude*. He accepted Jesus' view that "ye have the poor always with you." To him the needy were a device of God "to try us, as well as He tries them by being such." Charity meant to him "the commiseration of the poor and unhappy of mankind, and extends an helping hand to mend their condition."<sup>15</sup> He urged his wife and children to "let the Lord have a voluntary share of your income for the good of the poor."<sup>16</sup> Entries in the Cash Book used during part of his second sojourn in Pennsylvania show that he followed his own advice. For example, on December 2, 1700, there is entered a gift of five shillings "by charity to a poor sailor in prison"; and on February 7, 1700/1, it is recorded that he gave Thomas Potts six shillings "to give a poor man."<sup>17</sup>

Private charity was not sufficient. One of the benefits which Penn anticipated for England in 1675 from the "general religion" he had in mind was an increase in manufactures, which would "enable the several countries with more ease and decency to maintain the aged and impotent among them."<sup>18</sup> Article XXXVI of the Great Law provided for the care of the poor and of orphans.<sup>19</sup> One of the advantages which Penn listed for his province in the

<sup>14</sup> *Fruits of Solitude*, pp. 124-125. Compare Fox, *Journal of George Fox*, pp. 75, 175-177; and Penn's paragraphs on frugality and temperance in his advice to his children on their civil and religious conduct, *Works*, I, 898, 909-911. For further remarks on luxury read Penn's "Address to Protestants upon the Present Conjunction," *Works*, I, 721-818. See also Fisher, *The True William Penn*, pp. 188-190.

<sup>15</sup> *Fruits of Solitude*, p. 128.

<sup>16</sup> *Friends' Library*, V, 168.

<sup>17</sup> William Penn's Cash Book, pp. 10, 12. This document is in the library of the American Philosophical Society, Philadelphia.

<sup>18</sup> "England's Present Interest," *Works*, I, 703.

<sup>19</sup> Hazard, *Annals of Pennsylvania*, p. 627.

"Description of Pennsylvania" was that in "spring and fall there is an orphan's court in each county to inspect and regulate the affairs of orphans and widows." <sup>20</sup> In 1685, vexed at the reports of "looseness that is committed in the caves" along the banks of the Delaware, Penn urged that they be visited with authority and the disorderly persons ejected, "the empty caves to accommodate the poor families that may come over, though they must not stand long before men's doors." <sup>21</sup> Penn besought the council the following month to "be kind to strangers, especially the poorer sort, so all be most inoffensive and helpful." <sup>22</sup> Since he wished to encourage immigration into Pennsylvania, this injunction was, no doubt, animated by practical as well as charitable considerations. He wrote in 1686 to the president and provincial council in Philadelphia urging them to "cherish the people, be kind to strangers, and above all, let the widow and orphan be your care. . . ." <sup>23</sup> It has been noted elsewhere that following a letter from Penn to Thomas Lloyd a public grammar school was set up in Philadelphia which served later to educate free of charge the children of the poor. <sup>24</sup> The assembly in 1700 passed an act against "the grievous sins of cursing and swearing within this province and territories," which allocated fines for infractions of the law to "the use of the poor of the county where such offense shall be committed." <sup>25</sup> It is abundantly evident that Penn considered one of the most important functions of government to be the care of the unfortunate, the suffering, and the underprivileged.

He had a realistic attitude toward beggary. He declared that the cause of this evil in England was the failure to make provision "to supply the people with a new way of living" after the decline of rural manufacturing in some sections had produced widespread unemployment.

<sup>20</sup> *Old South Leaflets*, Vol. VII, No. 171, p. 389.

<sup>21</sup> Penn to Magistrates of Philadelphia, July 26, 1685, Dreer Collection—William Penn's Letters, p. 11. See also Penn's letter of Sept. 17, 1687, Penn MSS, X, Dom. & Misc Letters, p. 86. With reference to the "caves" along the Delaware, see Sharpless, *A Quaker Experiment*, Part I, p. 28.

<sup>22</sup> Penn to "Esteemed friends and Counsellors," Aug. 19, 1685, Gratz Collection, Case 2, Box 33.

<sup>23</sup> Penn to the President and Provincial Council of Philadelphia, April 24, 1688, Dreer Collection—William Penn's Letters, p. 16.

<sup>24</sup> Logan Papers, I, 66.

<sup>25</sup> *The Acts of Assembly of Pennsylvania*, p. 6.

He deplored the contemporary situation in England where "thousands of both sexes run up and down both city and country that are sound and youthful and able to work, with false pretences and certificates; nor is there any care taken to employ or deter such vagrants, which weakens the country as to people and labor."<sup>26</sup> Penn's view that society is largely responsible for beggary has come, of course, to be more widely accepted in these days of modern sociological research than it was two hundred and fifty years ago. To those who believe that the Quaker's idea on this point is still somewhat sentimental, it should be pointed out that he did not think that all mendicants were worthy of charity. He desired Robert Turner in 1686 not to "encourage" those who were "poor not laborers."<sup>27</sup> If he believed literally that God had said to Adam, "In the sweat of thy face shalt thou eat bread, till thou return unto the ground," he could not hold that the world owed every man a living.

Penn thought matters of public health properly the concern of government. He provided in the Conditions and Concessions of July 11, 1681, as a first requirement to be met in selecting the site of "a large town or city" in the new province, that it be "in the most convenient place upon the river for health and navigation."<sup>28</sup> He placed first among his instructions to the commissioners, Crispin, Bezar, and Allen, who were to settle the colony, the "especial care of the people that shall embark with you, that they may be accommodated with conveniences as to food, lodging and safe places for their goods."<sup>29</sup> He then gave instructions for the

<sup>26</sup> Hazard, *Annals of Pennsylvania*, pp. 508-509. Macaulay gives the estimates of Gregory King and Davenant as to the number of paupers and beggars in England in 1696. According to these authorities in that year out of a population of 5,500,000 in England, 1,330,000 were paupers and beggars. Macaulay, *The History of England from the Accession of James the Second*, I, 462, note 1.

<sup>27</sup> Penn to Turner, April 24, 1686, Dreer Collection—William Penn's Letters, p. 15. That Penn might have thought of other considerations than those of pure benevolence in his charity seems to be shown in his instructions to Blackwell in 1689 "that the widows, orphans, and absent may be particularly regarded in their right, for their cry will be loudest in all ears; but by absent I mean such as are so by necessity." Penn's instructions for Lieutenant Governor Blackwell, "or whom else it may concern," Sept. 25, 1689, *Pennsylvania Archives*, 4th series: *Papers of the Governors*, I, 106.

<sup>28</sup> Hazard, *Annals of Pennsylvania*, p. 516. A MS copy of this document is to be found in Fallon Scrap Book.

<sup>29</sup> Hist. Soc. of Pa., *Memoirs*, Vol. II, Part I, pp. 215-221; Hazard, *Annals of Pennsylvania*, pp. 527-531.

settlement of "a great town," in which he directed the commissioners to "be sure to make your choice where it is most navigable, high, dry, and healthy." During his second sojourn in America, at his instance and that of the council, the assembly passed several acts relating to public health. One of these measures, expressly "for the better provision for the health of the people," enacted that "no cattle shall be killed and exposed to sale but what is in fit case and marketable and that no cattle be killed till at least twenty-four hours after they have been driven." The assembly was requested to pass a zoning act, providing "that there shall be no slaughter house suffered in or about the town of Philadelphia but over the River Delaware, where the tide may carry off all their garbage, gore, etc., the places to be appointed by the magistrates, under the penalty of forfeiting their meat."<sup>30</sup> An act was passed in the autumn of 1700 "to prevent sickly vessels coming into this government," by which a system of bills of health and licenses was set up to prevent the spread of disease in the province and territories by the landing of goods or passengers from vessels hailing from "any unhealthy or sickly place whatsoever."<sup>31</sup>

It has been noted previously that Penn included as one of the purposes of government the suppression of vice. He repeatedly enjoined upon his deputies and legislators in America the duty of regulating the morals of the people.<sup>32</sup> The fundamental statutes of the province stigmatized as crimes minor human lapses which would today be regarded rather as sins than as offenses against the state. Many of these misdemeanors were violations of the Mosaic code and Scriptural and other commentaries thereon. The Quaker doctrine included a strict limitation upon indulgence in pleasure, and, like the Puritans and other groups, the Friends made the secular arm the servant of the church in the enforcement of these restrictions. The several proscriptions of crime in early Pennsylvania covered with particularity illicit sexual pleasures and the

<sup>30</sup> *Col. Rec.*, II, 27 (entry for Aug 1, 1701).

<sup>31</sup> *The Acts of Assembly of Pennsylvania*, p. 12.

<sup>32</sup> For example, Penn to "Esteemed friends and Counsellors," Aug 19, 1685, Gratz Collection, Case 2, Box 33, Penn to "Dear Friends," Oct 21, 1687, Penn MSS, X, Dom. & Misc. Letters, p. 87; Penn to "Friends," Sept. 5, 1697, Dreer Collection—William Penn's Letters, p. 42. Sharpless, *A Quaker Experiment*, Part I, pp. 28-29, states that the Quaker meetings importuned the assembly to check immorality.

wasting of time in vain diversions. The following offenses were punishable under the Laws Agreed upon in England: bribery in elections; false imprisonment; bribery, meaning "all briberies and extortions whatsoever"; defacing or corrupting "of charters, gifts, grants, bonds, bills, wills, contracts, and conveyances"; treason and murder, mentioned as capital offenses; perjury; breach of trust; and finally, "wildness and looseness of the people," including a long list of "offenses against God."<sup>33</sup> These crimes resembled closely the items of unsocial conduct prohibited in other colonial codes. Described by Penn as sins fit to "provoke the indignation of God against a country," they included such felonies as sexual misconduct, treasons, murders, mayhem, and forcible entries; but they also embraced profanity, drunkenness, and such offenses as "prizes, stage-plays, cards, dice, May-games, gamesters, masks, revels, bull-baitings, cock-fightings, and the like, which excite the people to rudeness, cruelty, looseness, and irreligion. . . ." The list of crimes in the Great Law was even longer. It added a number of illegal activities, among which were: polygamy, the selling of strong drink to the Indians, rioting, violence to parents and to magistrates, challenging or accepting a challenge to duel, seditious writing, disrespectful speaking against magistrates, slander, and scolding and railing.<sup>34</sup> The crimes listed fell naturally into several classes: offenses against God and the divine law; offenses against the code of sex morality; attacks upon authority in the home, the shop, the field, or the government; violations of the public peace;

<sup>33</sup> Hazard, *Annals of Pennsylvania*, pp. 569-574. Penn's repeated emphasis on bribery as a crime may be an illustration of the widespread incidence of this offense. That Penn knew the value of money as an inducement to human action may be deduced from several of his letters. For example, he wrote to Turner in 1681 with reference to the royal grant of Pennsylvania that he had opposed the naming of that region "nor could twenty guineas move the under-secretaries to vary the name, for I feared lest it should be looked on as a vanity in me, and not as a respect in the king, as it truly was, to my father, whom he often mentions with praise." *Ibid.*, p. 500. He wrote to Logan in 1704 about some delay in passing on statutes for his province: "Our laws lie for a good fee to the attorney general, fifty guineas at least . . ." Referring to some defect in the form of the laws as passed in Pennsylvania to which the attorney general objected, Penn said: "... the attorney general making the want thereof an ugly objection against the confirming of them. Though a good fee will go a great way to clear the scruple if I had it to give him. . . ." Penn to Logan, July 11, 1704, Logan Papers, I, 50. This point was suggested by Greene, *Provincial America, 1690-1740*, p. 79, who cites *Penn and Logan Correspondence*, I, 297.

<sup>34</sup> Hazard, *Annals of Pennsylvania*, pp. 621-626.



infringements of the rights of property; and indulgence in vain or vicious amusements. The crime of treason does not appear in this list, but notable emphasis is laid upon the preservation of the sanctity of governmental authority. To what extent this code expresses the ideas of William Penn and to what extent it is the work of others is not easily determined; but whether or not it was originated by him, the Great Law received his approval. It was not the work of a democrat or a liberal in church or state and would certainly not have been described as tolerant by either Anglicans or Roman Catholics.

Two crimes were indicated in the Laws Agreed upon in England as capital offenses, treason and murder. Treason is not clearly defined, and it may be presumed that the definition of that crime under English law would hold in Pennsylvania. Convicted offenders under this code were specifically provided with punishment for the infraction of some of the laws; such, for example, were those guilty of corrupting elections, "defacers or corrupters of charters," perjurers, and violators of trust. Others, however, were left to be "severely punished, according to the appointment of the governor and freemen in provincial council and general assembly."<sup>35</sup> The code passed at Chester, December 7, 1682, named murder as a capital offense, "according to the law of God and all nations." One half of the estate of a capital offender was to go to the nearest of kin of the victim, while the other half was to be inherited by the nearest relative of the executed criminal. No punishment was prescribed for manslaughter; upon conviction of this crime the guilty person was to "be punished according to the nature and circumstances of the offence." Polygamists were to be imprisoned for life. First offenders against the code of sex morality were treated, on the whole, less severely than are similar persons today. For the first offense, adulterers, rapists, and those guilty of unnatural sex crimes were punished by a whipping and imprisonment at hard labor for between six months and a year while for the second offense life imprisonment was prescribed. Obscenity was penalized as follows: "whosoever shall be convicted of speaking an obscene or an unclean word, shall, for every such offence, pay one shilling, or sit in the stocks two hours." Crimes against prop-

<sup>35</sup> *Ibid.*, p. 574.

erty were punished on the general principle of restitution. Those convicted of housebreaking with intent to commit larceny, for example, were to "make fourfold satisfaction, and suffer three months' imprisonment at hard labor in the house of correction; and if the party offending be not able to make restitution, he or she shall be imprisoned seven years." Thieves were required, upon conviction, to make restitution of fourfold the value of the stolen property, and those who committed arson, to "make satisfaction double the value." Most of the other crimes listed, including blasphemy and cursing, were punishable by various terms of imprisonment or by fines. Persons convicted of introducing into the province or of frequenting the "rude and riotous sports and practices" enumerated above were subject to at least ten days' imprisonment at hard labor or the forfeiture of twenty shillings. "Playing at cards, dice, lotteries" was prohibited under penalty of five days' imprisonment or a fine of five shillings. Some offenders, such as rioters, those committing assaults, slanderers, and spreaders of false news, were given no definitely fixed punishment. They were presumably to be punished under the laws of England with reference to their crime. In fact, the Concessions of July 11, 1681, indicated that in certain cases crimes were to be punished in the manner provided in England until "altered by law in this province." A document, perhaps drawn up in 1682, in Penn's handwriting, entitled "Laws and Orders for the Keepers and Frequenters of Ordinaries" offers evidence that if the Founder did not himself draw up the criminal codes discussed thus far, he was at least in general accord with them. This unsigned autograph begins with the pious statement that "Righteousness exalts a nation but sin is the shame of any people." It prohibited under penalty of fines or imprisonment such offenses as: swearing; cursing; speaking profanely; permitting excessive drinking; playing at cards, dice, and "such like vain and evil sports"; seditious speaking; speaking "slightingly" against a magistrate; reporting "false news"; defaming; clamoring, scolding, or railing; charging more than the maximum price for meals or drinks; tolerating disorder in the house; or permitting persons to remain longer in the house than a specified time.<sup>36</sup>

<sup>36</sup> Gratz Collection, Case 2, Box 33. Though the document is undated, Dr. A. C. Myers stated in the spring of 1933 that he thought the proper date of the docu-

These enactments on the subject of crime bespeak their origin among a puritanical people. The Quakers approved of restrictions not generally placed upon conduct in modern America. Penn's attitude toward the punishment of criminals as set forth in these laws, however, was far in advance of his time. Of the crimes enumerated in the first code, that of 1682, none was punishable by mutilation and none specifically by death, except murder. Such survivals existed as public whipping and the stocks, but these devices were common in the penal systems of the English colonies in America. A second and more severe code was set up, under Penn's regime, in the one hundred and four chapters of law passed by the assembly at New Castle on November 27, 1700, and ratified during the following year.<sup>37</sup> This code increased the number of crimes and introduced such penalties as castration, servitude, and branding. Moreover, a special chapter was incorporated on the trial of Negroes, which prescribed for the blacks the penalty of death upon conviction for rape upon a white woman, for murder, for buggery, or for burglary.<sup>38</sup> The increase of crime in the colony may well have provoked the Founder to abandon his earlier and milder code.<sup>39</sup> During the reign of Queen Anne nearly three dozen offenses were in England punishable by death; and this large number was multiplied fourfold during the reigns of the first three Georges. Contemporary English criminal legislation, there-

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ment was 1682. If his opinion is correct, this probably antedates the so-called Great Law and, perhaps the Laws Agreed upon in England, and may have been a preliminary sketch of these documents.

<sup>37</sup> *Statutes at Large of Pennsylvania*, II, 3-141.

<sup>38</sup> Chapter LXI, entitled "An Act for the Trial of Negroes," *Statutes at Large of Pennsylvania*, II, 77-79. Gipson, "Criminal Codes of Pennsylvania," *Journal of the American Institute of Criminal Law and Criminology*, Vol. VI (1915), No. 3, pp. 323-344, analyzes, in comments and tables, the various codes of colonial Pennsylvania. He found that the code of 1700-1701 increased the number of crimes in Pennsylvania from thirty-nine to forty-two and introduced such penalties as castration for three offenses, servitude for one, and branding for five. See also Gipson, "Crime in Provincial Pennsylvania," *Pennsylvania History*, Vol. II (1935), No. 1, 3-16, summarizing the earlier study. Compare Turner, *The Negro in Pennsylvania*, p. 29.

<sup>39</sup> See Gipson, *The British Empire before the American Revolution*, III, 179-181. Criminal legislation in provincial Pennsylvania subsequent to the withdrawal of the Founder from active personal government, particularly in 1718 and 1722, made the code of that colony, in Gipson's opinion, "one of the harshest bodies of law in North America."

fore, illustrates the comparative mildness even of Penn's later code of 1700-1701.<sup>40</sup>

The system of prison administration provided for Pennsylvania was notably superior to that illustrated in the jails which Penn and his Quaker associates had known so intimately in the mother country. The tenth article in the Laws Agreed upon in England provided "that all prisons shall be work-houses for felons, vagrants, and loose and idle persons, whereof one shall be in every county." The sixty-second article of the Great Law set forth the same principle. The following provision forbade jailers to "oppress" their prisoners and required that the latter "shall be free as to room, and all prisoners shall have liberty to provide themselves bedding, food, and other necessities during their imprisonment, except such whose punishment by law will not admit of that liberty." Excepting capital offenses, crimes were bailable. It has been shown elsewhere that Penn did not believe in imprisonment for debt, at least not in the case of the smaller debtors.

The first Quaker immigrants to Pennsylvania, says Sharpless, were, for the most part, a well-disciplined and orderly group. They were shocked, as the older generation is proverbially shocked, by the conduct of newcomers and of the youth.<sup>41</sup> By 1697 Penn was ready to address the colonists in stern language. He wrote from London in that year about the accusations that had lately reached him of infractions of the acts of trade in Pennsylvania and even of the reception there of pirates.<sup>42</sup> He commanded the governor and the council to suppress not only "forbidden trade and piracy" but "also the growth of vice and looseness, till some severer

<sup>40</sup> For a brief treatment of the types of punishment characteristic of the English colonies in America in the eighteenth century, see Channing, *A History of the United States*, II, 388-394. See also Jernegan, *The American Colonies*, pp. 182-184, 211, 230. For English methods see McAdoo, *The Procession to Tyburn. Crime and Punishment in the Eighteenth Century*, pp. xv-xvi.

<sup>41</sup> See William Markham's proclamation of April 13, 1687, "By the President and Provincial Council of the Province of Pennsylvania and Territories Thereunto Belonging" to the magistrates, Penn Letters and Ancient Documents, I, 200. See also the address to the grand jury for the court at Philadelphia, dated March 3, 1695/6, in the same collection, II, 282-283. See also Sharpless, *A Quaker Experiment*, Part I, pp. 28-29.

<sup>42</sup> Penn to "Friends," Sept. 5, 1697, Dreer Collection—William Penn's Letters, p. 42. See also a printed copy in *Pennsylvania Archives*, 4th series: *Papers of the Governors*, I, 108-109. The body of the letter shows that it was intended, at least in part, for the governor and the provincial council.

laws be made against them." Among the evils which so provoked his condemnation were the unregulated and improperly managed "public houses." He specifically instructed the authorities in his province "that no licenses be granted to any to keep public houses that do not give great security to keep civil houses and are not known to be of a sober conversation." He thought that the approval, if not the licensing, of such places should be placed in the hands of the justices in the county courts "in order to prevent much of the occasion of such lewdness and idleness as are too often seen in such places. . . ." Ten years later he was still deploring the "encouragement of the growth of vice" in his province "for want of power and countenance to suppress it."<sup>43</sup> He mentioned to Governor Evans the report "of the more than enough of public houses, especially in Philadelphia, that are licensed by thee, and the unfit persons that are so, being not of that sobriety and good order required in such as keep taverns. . . ." Unregulated dispensaries of drink were not properly part of the Quaker regime, and Penn thought that the management of such business ought to be in the hands of responsible persons. His policy toward taverns was one of strict licensing and governmental control.

Penn believed in the regulation not only of drinking places but also of inns and innkeepers. In the autograph referred to earlier in the present chapter he sketched certain requirements fixing prices and minimum hotel accommodations. An innkeeper, for example, was not to charge more than six pence for "a meal of flesh meat and small beer." The maximum charge for a Winchester quart of strong barley malt beer was two pence; for molasses beer, one penny. Stabling was to be provided for four horses, with "hay for them, and ask no more than six pence for every night for each of them." Innkeepers were required to have four beds for strangers and to charge no more for one person's lodging a night than two pence, providing he was travelling on foot. Innkeepers were to be held responsible for their guests. The host was to permit no one to stay later than eight o'clock at night

<sup>43</sup> Penn to Evans, May 15, 1707, Penn MSS—Penn Family to Logan, I, 34. The letter is printed in the *Penn and Logan Correspondence*, II, 220-222. In this letter Penn complained that the growth of vice touched his reputation, who had so fairly begun "in both good laws and good examples too."

in his inn, "travellers and lodgers excepted." No "indweller of the place" was to be allowed to remain in the inn "longer than one whole hour at one time . . . unless on a meeting of business." The innkeeper was to give "an account to the next justice of the peace in the place of the name of every stranger and traveller that cometh to the house from time to time after daylight."

Whether or not the policies recommended in this paper were the basis of the famous Great Law, they were followed by Penn as a matter of policy for at least twenty years. He raised the question with the council in 1683 "whether a solemn proclamation might not be convenient to go along with the laws concerning ordinaries keeping unseasonable hours and selling of rum." The council agreed that the proclamation should be issued, and the next year that body passed a bill to suppress the keepers of ordinaries. Several months later it was necessary for the council to order "that magistrates give instructions to the grand jury for suppressing of ordinaries, according to law."<sup>44</sup> In 1701, probably inspired by Penn's campaign to stamp out illegal trade, the council issued new orders "strictly requiring that no stranger shall travel without a pass, and that all innkeepers and keepers of public houses and ordinaries give due notice of all strangers coming to their houses to some neighboring magistrates, or in case of remoteness from a magistrate, to two housekeepers of the neighborhood." The same proclamation forbade ferrymen and boatmen to "transport or carry any stranger or suspicious person without producing a good testimonial under the hand of a magistrate."<sup>45</sup>

The control of the taverns was the subject of some controversy between Penn and the assembly in the fall of 1701. Answering a set of queries put to him by that body with reference to his position on various issues, he said on the subject of licensing innkeepers: "I am content that no licenses shall be granted to any ordinary innkeepers but such as the justices shall recommend, nor suffer them longer than the magistrates find they behave well."<sup>46</sup> The seventh of the nine articles of the Charter of 1701 forbade the

<sup>44</sup> *Col. Rec.*, I, 75-76, 98, 102, 117 (entries for June 9, 1683, and March 26, April 1, and July 26, 1684).

<sup>45</sup> *Ibid.*, II, 13 (entry for Feb 18, 1701).

<sup>46</sup> *Ibid.*, p. 42 (entry for Sept. 29, 1701).

governor to issue a tavern license to any one who was not recommended by the justices, and empowered the latter to suppress any disorderly public house.<sup>47</sup>

Penn exacted total abstinence neither from himself nor from others. He believed in the moderate use of liquor both as a beverage and as a medicine.<sup>48</sup> Beer and rum were subjects of discussion and legislation in the provincial council in 1684, but the motive of the legislators was not prohibition of the use of these beverages. The measures debated were designed to standardize the content of the drinks and to protect them against adulteration.<sup>49</sup> Penn operated a brewery on his estate at Pennsbury.<sup>50</sup> Drunkenness, however, he deplored, and attempted to limit in his province.<sup>51</sup> It has been shown elsewhere that he attempted to check the sale of liquor to the Indians. The council passed in the spring of 1684 by unanimous vote a "bill about drunken bargains being made void." Penn thought that drinking ranked with other self-indulgences as a proper subject for taxation. He instructed Robert Turner in 1684 to "press" the general assembly of West Jersey to follow the example of Pennsylvania and levy a tax "upon strong spirits," which tax seemed to him "the most insensible way to supply the wants of our government, for the rich and the drunkard will be most concerned in it."<sup>52</sup>

It is hardly to be doubted that Penn's repugnance to drunkenness was largely the fruit of his Quaker belief in moderation in all things. His was notoriously an age of hard drinking, and in his

<sup>47</sup> *Ibid.*, p. 59 (entry for Oct. 28, 1701). Compare Sharpless, *A Quaker Experiment*, Part I, p. 65.

<sup>48</sup> For example, Penn to Harrison, Oct. 7, 1684, and Jan. 28, 1686/7, Penn MSS, X, Dom. & Misc. Letters, pp. 8, 32, Penn to Gratton, Aug. 21, 1695, *A Quaker Post-Bag*, edited by Mrs. Locker-Lampson, pp. 9-10; Penn to Nicholson, Dec. 31, 1700, Letter Book, 1699-1701, p. 81; Penn to Logan, undated, *Penn and Logan Correspondence*, I, 20; same to same, June 30, 1701, and Sept. 8, 1701, and Feb. 20, 1702/3, *Penn and Logan Correspondence*, pp. 44, 55, 166; same to same, Nov. 2, 1704, Penn MSS—Penn Family to Logan, I, 21, same to same, Sept. 16, 1704, Logan Papers, I, 51.

<sup>49</sup> *Col. Rec.*, I, 98, 101 (entries for March 26 and April 1, 1684).

<sup>50</sup> Penn to Harrison, March 18, 1685, Penn MSS, X, Dom. & Misc. Letters, p. 10.

<sup>51</sup> Penn to Savell, July 30, 1683, Society Collection; Penn to Sunderland, Hist. Soc. of Pa., *Memoirs*, Vol. II, Part I, p. 246; Penn to the Magistrates of Philadelphia, July 26, 1685, Dreer Collection—William Penn's Letters, p. 11.

<sup>52</sup> Penn to Turner, March 31, 1684, Penn Papers, J. Francis Fisher's Copies, p. 5. Compare Norris to Ford, June 13, 1700, *Penn and Logan Correspondence*, I, 4.

associations at the Stuart court he must have become quite familiar with the use and abuse of alcoholic stimulants. If we may believe Samuel Pepys, Penn's father, the Admiral, loved liquor in the traditional manner, and the younger Penn must have been acquainted with it from childhood.<sup>53</sup> The Quaker's son, William, was distressingly familiar with strong drink.<sup>54</sup> In Penn's extant writings, however, as might be expected of an English gentleman of his day, there is no condemnation of drinking *per se*. What he condemned was excess. As a Quaker, moreover, he believed in the inherent worth of the individual man, and drunkenness to him seemed degrading to the human character. To him it was a spiritual evil.<sup>55</sup> There is nothing in his writings to indicate that he thought seriously of the economic or social implications of the vice as distinct from its damaging effects upon the individual.

Historians are agreed that the witchcraft delusion in Massachusetts, culminating in the well-known cruelties at Salem in 1692, was not exclusively a Puritan error either in England or in America.<sup>56</sup> William Penn sat in judgment upon an alleged witch in 1684, one Margaret Mattson, accused before the council of having bewitched cattle. Penn charged the jury and the poor woman was found guilty "of having the common fame of a witch, but not guilty in manner and form as she stands indicted." Neels Mattson, her husband, and Anthony Neelson were instructed to be security in the total sum of one hundred pounds for the good behavior of the accused over a period of six months. On the same date Jacob Hendrickson was obliged to give security amounting to fifty pounds for the good behavior of his wife, Getro or Yeshro, for a similar period.<sup>57</sup> Whether or not Penn accepted literally the

<sup>53</sup> Pepys, *Diary and Correspondence*, I, 186, 232, 233-234, 275, 311-312, 351-352, 374 (entries respectively for Sept. 8, Sept. 11, Dec. 22, Dec. 27, 1660; April 2, June 5, July 28, Sept. 9, and Nov. 5, 1661).

<sup>54</sup> For a good brief account of the Founder's son, William, see Hull, *William Penn: A Topical Biography*, pp. 48-57.

<sup>55</sup> *Fruits of Solitude*, p. 35, maxim 72: "All excess is ill; but drunkenness is of the worst sort. It spoils health, dismounts the mind, and unmans man. It reveals secrets, is quarrelsome, lascivious, impudent, dangerous, and mad. In fine, he that's drunk is not a man; because he is so long void of reason that distinguishes a man from a beast."

<sup>56</sup> Channing, *op. cit.*, II, 456-462; Greene, *op. cit.*, pp. 25-29; Jernegan, *op. cit.*, pp. 164, 185-187; Adams, *The Founding of New England*, pp. 451-456. Compare Bancroft, *History of the United States of America*, II, 58-66.

<sup>57</sup> *Col. Rec.*, I, 94-96 (entry for Feb. 27, 1683/4).



Biblical injunction "Thou shalt not suffer a witch to live" does not appear in his writings. If he did believe in witchcraft—and in his day many who accepted the Old Testament did so believe—he must have considered the evidence against the accused women insufficient to convict them of improper familiarity with the devil.<sup>58</sup> It would be difficult to state confidently that Penn did or did not believe in witchcraft. With respect to some religious dogmas not now accepted by the critical, he shared the credulity of his age. Like the majority, perhaps, of contemporary Englishmen, he was deceived by the notorious Titus Oates in his "Popish Plot" of 1678. On the other hand, Penn's enlightenment in many particulars might warrant some doubt that witchcraft was among his delusions. At any rate no direct testimony has been found by the writer on this point.

With respect to one other superstition of the day Penn's enlightenment is certain. He opposed duelling both in theory and in practice. In early manhood he wore the traditional sword of the young aristocrat; later, no doubt as a result of his association with George Fox, he abandoned the ancient practice of personal combat with carnal weapons. Though he did not deny himself the joy of the most violent dialectical warfare, he sought to limit the freedom of others to display their prowess on the field of honor. Duels were denounced in the Laws Agreed upon in England as among the offenses "against God," which were to be "respectively discouraged and severely punished." Giving or accepting a challenge was declared punishable in the Great Law by a fine of five pounds or imprisonment for three months at hard labor. Finally, in 1700, under Penn's guidance, the assembly passed a still more severe law raising this penalty to the fine of twenty pounds or three months of imprisonment at hard labor.<sup>59</sup>

William Penn's theories as to the nature of society and the relations of the individual to the group approach the modern liberal ideology more nearly than do either his political or economic ideas. It has been noted in earlier chapters that the aristocratic

<sup>58</sup> The testimony as reported in the *Colonial Records* against Mrs. Mattson was, of course, hearsay and gossip; but it may well have been as strong as that upon which other poor wretches were executed.

<sup>59</sup> *The Acts of Assembly of Pennsylvania*, p. 6.

landholder was often evident even when the equalitarian seemed to speak most clearly. In things social, possibly religious creeds have a wider and less impeded way than in other areas of thought. It is in this field that modern philanthropists undertake to readjust the balance in favor of their less comfortably endowed fellows by founding public libraries, universities, and other enterprises for the public welfare. The Quaker faith is related more closely to the social than to either the political or economic phases of life. In Penn's social theories, as elsewhere, the aristocrat is never completely lost; but in applying his ideas he was equalitarian and humanitarian to a more notable degree than in other fields. In his social philosophy the voice of the Quaker spoke with less hesitation and more consistency than anywhere else.

## EPILOGUE

*The end of everything should direct the means . . .*

*. . . And, dear John,<sup>1</sup> I have often begrudged thee thy unactive life. The proverb is wise. Use legs and have them. Get abroad and mix with living friends and thou wilt feel an increase in thy bosom, and it will engage thee more in an universal spirit and general service. The Lord that found thee out and called thee intended thee other work than to spend thy youth, the cream of thy time, in a retired unconcerned silence. It does not fill up thy calling nor quality. Thy outward character as a man and thy service in the church are at too great a disproportion. We have bitter adversaries and want helpers. It were a fine introduction for thee. Many friends would be glad of thy company in their travails. I can say it was my delight, and I thought it my honor, to be admitted to such fellowship and service, and so will that eye and mind that sees and judges right.*

*Your union is what I desire, but your peace and accommodation of one another is what I must expect from you. The reputation of it is something, the reality much more. And desire you to remember and observe what I say. Yield in circumstances to preserve essentials; and being safe in one another, you will always be so in esteem with me. Make me not sad now I am going to leave you, since 'tis for you as for  
Your friend, proprietor, and governor, W. P.*

WILLIAM PENN was by nature neither speculative nor scientific. He was not interested in building for any field of knowledge a systematic ideology. He made no pretense to the discovery of new truth. When he set forth principles to guide human action, he claimed no originality. His teachings proceeded from the eternal verities and could have been discerned by all men through the "inner light"; they were not new doctrines established and proclaimed by William Penn. If at times he was dogmatic, his dogmatism resulted rather from the trustful certainty of the convinced believer than from the self-assurance of the philosophic doctrinaire. He has, therefore, figured on the stage of history primarily in roles other than that of the philosopher.

Penn's printed works, numbering almost eight score titles, include books which have won fame in their own and later genera-

<sup>1</sup> Sir John Rodes of Barlbrough.

tions. Some have been reprinted many times. Several, particularly *An Essay towards the Present and Future Peace of Europe* and *Fruits of Solitude*, have been republished in popular editions within the present century. A few of his earlier works bear some of the marks of scholarship. His most famous doctrinal writing, *No Cross, No Crown*, is heavily documented and rich with citations from many sources. Others follow the same model. These books evince wide acquaintance with the Scriptures, with theology, with the political and legal history of his own and other countries. They show also a lawyer's ability to marshal facts and apply evidence. Yet Penn has never won wide recognition as a scholar. Perhaps, to the worldly, his method has resembled more the documented, purposeful briefing practised by the advocate than the critical, impartial weighing of evidence characteristic of the scholar. Most of his writings are frankly and emphatically *tendenzios*. Plainly, his chief service to mankind is that neither of scholar nor of sage.

Penn is known as the fearless advocate of religious toleration for his own and other dissenting sects. To accomplish his purpose in England, as in America, he had to play the role of politician. Contrary to Quaker preachments and to his own maxims, he participated by speech and pamphlet in political controversy. He cultivated the friendship of the mighty, even when they possessed few virtues to commend them to his sect. Though he feared Catholic plots and propaganda, he suffered disgrace and persecution because of his intimate association with a devoutly Catholic monarch. In the end—nearly thirty years before his death—the Act of Toleration began the accomplishment of his ideal in England, an ideal which had still to wait more than a century for its complete fulfillment.

Penn's services as a Quaker preacher and missionary are perhaps no less important to the members of his sect than are his labors in behalf of religious toleration. Throughout a busy lifetime he taught in sermon and in essay the doctrines of the Friends. He is counted today with Fox and Ellwood, Penington and Barclay, among the principal exponents of the Quaker theology. Since one of the great principles of his religious faith was the immorality of international violence and force, his teachings

may, in the long course of history, conceivably be no less important to all men. When Europe was almost constantly distraught by dynastic and imperialistic wars, Penn expounded the possibility of universal peace. He set forth to an incredulous or indifferent world the proposition that peace must rest on justice. His own diplomatic activities in America demonstrated that wars may be avoided by a spirit of accommodation and compromise. His labors for the cause of pacifism have seemed to modern Friends of such lasting significance that one distinguished Quaker scholar presented a special edition of the *Essay towards the Present and Future Peace of Europe* to the Second Peace Conference at The Hague in 1907.

Penn stands forth as one of the founders of the first British Empire, the creator of one of the greatest of the United States, the designer of an American metropolis now rich in historic tradition. He is remembered as one who built a haven for those oppressed for conscience sake. He is honored by men of all opinions as an imperial statesman in whose relations with a subject race there is no evidence of violence, dishonesty, deceit, or conscious exploitation. He is admired as a political idealist who, in an undemocratic age, dared to write of government through laws made by the governed and who, in practice, permitted his colonists a comparatively large measure of political freedom.

It is less widely known that William Penn was interested, as were the greatest English statesmen of his day, in the economic development of the plantations. The founding of Pennsylvania was fundamentally an idealistic project, but Penn lamented often its failure to bring him material compensation. He sought through the traditional economics of his age to bring prosperity to his colony, to his settlers in America, and to himself. In some respects he was a mercantilist. Yet he saw on occasion through the eyes of the colonials and realized the shortsightedness of some of the British commercial policies. Throughout his life he respected the so-called rights of property, though he usually gave that term a wider meaning than is common today. He was an economic conservative if judged by standards of the present, but at times his methods were as paternalistic as are those of modern collectivism.

He feared *per se* neither private monopoly nor governmental regulation.

Less widely appreciated, too, is William Penn's part in the building of the English empire in America. Like later British and American statesmen, he faced that crucial problem of early American political history, the establishment of limited government in an efficient imperial order. His best-known contribution toward the solution of this problem is the plan of union for the colonies, largely (though he said not principally) designed as a defensive measure against the hostile French. Penn seems to have been the leading spirit in promoting the conference of provincial governors at New York in 1700. To develop colonial unity he carried on an intercolonial correspondence, a device which, under more favorable circumstances, was to bear substantial fruit three generations later. His policies concerning the Indians were sometimes deliberately planned to weaken the influence of the French and to substitute for it the economic and political domination of the English. As a colonial statesman William Penn exhibited no mean ability.

It was in his role of humanitarian that Penn demonstrated the greatest freedom from the practical considerations that warp the philosophy of men. He was, as such, not limited by the necessity of conforming to the exigencies of English or colonial politics, and not bound by distracting economic motives. His great enterprise in the New World was an endeavor to set up a social order blessed with religious toleration and controlled by humanitarian ideals. In this sense it was most genuinely "an holy experiment." Religion is the key to Penn's humanitarianism and to the political liberalism which characterized his earlier career. He was not a philosophic democrat, but he was a friend of man.

The impressive catalog of Penn's labors bespeaks a busy life. His achievements were the deeds of an active, versatile personality, endowed with great energy and force, rather than the meditations of the purely speculative thinker. Serenity was not his constant companion; if at times he was contemplative, his days were too full of distractions for the slow and painful formulation of a systematic philosophy. He was not gifted with that essential char-

acteristic of the seer, so well described by Matthew Arnold, the ability to see life steadily and to see it whole. He was fundamentally religious, and his reasoning was more often inspirational and *ex cathedra* than logical and inductive. By nature a controversialist, he regarded his professed principles rather as positions to be defended than as hypotheses to be examined. William Penn was more a man of faith and action than a man of thought.

His deeds were inspired by ideals and, hence, by a philosophy; but the deeds, in turn, conditioned the philosophy. Penn was concerned chiefly with the practical accomplishment of purposes which many men thought visionary. He could realize his ideals only by treating practically the human and material factors in the contemporary scene. He was, therefore, not disposed to adopt the detached attitude of the scientific observer; nor did he, like the mathematician, choose to look upon the universe *sub specie aeternitatis*. His philosophy was always dynamic and purposive.

As life itself not infrequently reveals little plan or pattern, so Penn's ideology often exhibits little internal consistency. Politician and practical statesman no less than preacher, he took the world as he found it, not as he wished it to be. In his career, as in the life of many realists, there was necessarily some opportunism. His ideology often rationalized his desires. His philosophy eventuated in action; but, in turn, the contemplated action bent the philosophy to its needs. "The end of everything should direct the means." William Penn was a pragmatist.

When he died on July 30, 1718, two groups oppressed by their contemporaries remembered that he had had principles. A meeting of Friends and a tribe of Indians recalled that William Penn had raised his voice for liberty and for justice.

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The Acts of Assembly of Pennsylvania	The Acts of Assembly of the Province of Pennsylvania
Amer. Hist. Assoc. Annual Rept.	Annual Report of the American Historical Association
B. T. J.	Journal of the Board of Trade
B. T. P.	Papers of the Board of Trade
C. S. P.	Calendar of State Papers
Col. Rec.	Colonial Records, i.e., Minutes of the Provincial Council of Pennsylvania
Friends' Hist. Assoc., Bulletin	Bulletin of Friends' Historical Association
Hist. MSS Com.	Historical Manuscripts Commission
Hist. Soc. of Pa.	Historical Society of Pennsylvania
Jour. of the Friends' Hist. Soc.	Journal of the Friends' Historical Society
Letter Book, 1667-1675	William Penn's Letter Book, 1667-1675
Letter Book, 1699-1701	William Penn's Letter Book, 1699-1701
Penn MSS, X, Dom. & Misc. Letters	Penn Manuscripts, X, Domestic and Miscellaneous Letters
Votes and Proceedings of the House of Representatives	Votes and Proceedings of the House of Representatives of the Province of Pennsylvania

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    Private Correspondence.  
Penn Papers  
    Charters and Frame of Government.  
    Deed Box.  
    J. Francis Fisher's Copies.  
    Miscellaneous Papers, Penn and Baltimore.  
    Penn vs. Ford.

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